

VOLUME: XIX
PAGES: 1-217
EXHIBITS: 47-48

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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* Docket No. 2282CR00117

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TESTIMONY OF JENNIFER MCCABE
BEFORE THE HONORABLE BEVERLY CANNONE
FRIDAY, MAY 2, 2025

APPEARANCES:

For the Commonwealth:

BY: HANK BRENNAN, A.D.A.
ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.
ROBERT ALESSI, ESQ.

Dedham, Massachusetts

Also present:

Cindy Gilman
Evan Wolk

Christine D. Blankenship, CVR
Court Reporter/Transcriber

I N D E X

Page:

Proceedings

3

Exhibits:

Page:

None

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-3

1 (Testimony of Ms. McCabe commences at 9:15 a.m.)

2 THE COURT: Good morning, Ms. McCabe.

3 JENNIFER MCCABE, sworn

4 THE COURT: Good morning.

5 THE WITNESS: Good morning.

6 THE COURT: All right, Mr. Jackson, whenever you're
7 ready.

8 MR. JACKSON: Thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 **BY MR. JACKSON, continued:**

11 Q (By Mr. Jackson) Good morning, Ms. McCabe.

12 A Good morning.

13 Q I'd like to draw your attention back to the time that
14 you were watching the SUV out of the front door -- through
15 the front door at 34 Fairview. Do you that time in mind?

16 A I never watched it but I looked at it.

17 Q You saw it?

18 A Correct.

19 Q All right. I just want to clear up one of the time
20 frames that you indicated you last saw that SUV. You saw
21 that SUV for the final time at 12:45 a.m., correct, it was
22 up past the flagpole at that point?

23 A I can't be sure of a specific time. You indicted at
24 a prior hearing in June 2023 that you, in fact, did see it

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-4

1 for the last time at 12:45, and you know that because of a
2 text message that you sent at 12:45; is that right?

3 A I did send a text message at 12:45; that is correct.

4 Q Did you say quote -- and by the way, for Court and
5 counsel, this is at 782, lines 24 through 25, over to 783,
6 lines 1 through 13 or so. Actually one through three.

7 MR. BRENNAN: Which page number, Counsel?

8 MR. JACKSON: It's 782 going to 783.

9 MR. JACKSON: May I approach, Your Honor?

10 THE COURT: Yes.

11 MR. JACKSON: Mr. Brennan.

12 MR. BRENNAN: Thank you very much.

13 MR. JACKSON: No problem.

14 Q Actually, Ms. McCabe and for Court and counsel I'm
15 going to back up just a little bit to line 20.

16 You stated quote, so I think my husband and I were
17 talking just like about what they were doing, and then I
18 sat back down and then at one point I think I said hello,
19 and then I said at 12:42, "Where are you?" And then flip, I
20 don't know if that's my last text, or if I did one more.
21 Yeah, 12:45, hello. Because they were still there.

22 And then question, "So the dark SUV was still outside
23 the house at 12:45?"

24 Answer, "At 12:45."

1 Do you remember that question and answer colloquy back
2 in June of 2023?

3 A I've been asked a number of questions, specifically
4 that, those words, no. I do remember testifying. I
5 believe I said I think in there. I think that. And to be
6 honest, I'm not sure of exactly the times. I didn't pay
7 close attention to when I was texting. Even though I was
8 sitting, I was going back and forth to the door.

9 Q But in June of 2023, at a hearing under oath, you did
10 say that it was at 12:45 that you last saw the vehicle?

11 A I believe I said I think.

12 Q Would it refresh your recollection to take a look at
13 the transcript I just read from?

14 A I believe the word I think is in there.

15 Q You believe, but you're not sure.

16 A Okay. I'll look at it.

17 Q Would it refresh your recollection?

18 A Sure.

19 MR. JACKSON: May I approach?

20 THE COURT: Yes.

21 MR. JACKSON: Thank you.

22 A Thank you.

23 Q You're welcome.

24 MR. JACKSON: May I approach, Your Honor?

25 THE COURT: Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-6

1 MR. JACKSON: Thank you.

2 Q Does that refresh your recollection, Ms. McCabe, what
3 you said in June of 2023 about seeing the SUV at the
4 location at 12:45?

5 A I see what I read -- sorry. I saw what I just read. I
6 don't remember my exact words of every testimony, but I did
7 just read that, yes.

8 Q And in fact what you said back in June of 2023, quote,
9 I don't know if it's my last text or if I did one more.
10 Yeah, 12:45, hello. Because they were still there, period,
11 correct?

12 A That's a part of what I said.

13 Q And then the question was, "So the dark SUV was still
14 outside the house at 12:45?"

15 Answer, "At 12:45."

16 A I know I said I think. My husband denies. So there's
17 more to that conversation.

18 Q Ms. McCabe, what I read you is what the transcript
19 indicates you said on June 8th of 2023, correct?

20 MR. BRENNAN: Objection.

21 THE COURT: Can you answer that? Is that correct?

22 A That I saw it at that time?

23 THE COURT: Ask the question again, Mr. Jackson.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-7

1 Q Sure. That what you testified to in June of 2023 was
2 you saw the SUV for the last time at 12:45. That's what
3 you said, at least back then.

4 A That's part of what I said.

5 Q I don't know if that's my last text or if I did one
6 more. Yeah, 12:45, hello. Because they were still there.

7 Question, "So the dark SUV was still outside at 12 --
8 outside the house at 12:45?"

9 Answer, "At 12:45."

10 That's what you actually testified to in June of 2023.

11 A That's what that says, correct.

12 Q Thank you. You've been asked about with whom you
13 communicated first thing in the morning when you received
14 that 4:53 a.m. call, there -- at that call and thereafter,
15 shortly thereafter, in the next few minutes, correct?

16 A Yes.

17 Q As a matter of fact, you were asked by Trooper Prince
18 in a formal interview on February 1, 2022, I know that was
19 a while ago, in that initial formal interview three days
20 after the event, Trooper Prince, the female trooper, asked
21 you who you called or who you communicated with during that
22 important few minutes after you received the first phone
23 call from (C) 's phone, correct?

24 A I'm not sure of our exact conversation, but she did ask
25 me a number of questions.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-8

1 Q Do you remember telling her, "I spoke with Karen Read,"
2 obviously?

3 A Again, I answered whatever questions she asked me. So
4 if she asked -- I did speak with Karen Read that morning,
5 correct.

6 Q Okay. Ms. McCabe, my question is did you tell Trooper
7 Prince three days after the fact I spoke to Karen Read, yes
8 or no?

9 A If you have her report. I don't remember the
10 specifics. I met with many, many police officers.

11 Q Sure. Would it refresh your recollection to take a look
12 at her report?

13 A I'd like to look at it, yes.

14 Q Sure.

15 MR. JACKSON: May I approach?

16 THE COURT: Yes.

17 A Thank you.

18 Q Ms. McCabe, you can familiarize yourself with that
19 report, and there's a tab if that helps you because it's
20 somewhat lengthy. See if that refreshes your recollection.

21 A Thank you. (Witness complies.) Okay.

22 MR. JACKSON: May I approach?

23 THE COURT: Yes.

24 Q Thank you. Ms. McCabe, did that refresh your
25 recollection as to what you told Trooper Prince?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-9

1 A I know what happened, so I just answered the questions.

2 Q Yes or no. Yes or no, does that refresh your
3 recollection as to what you told Trooper Prince?

4 A Yes.

5 Q You told Trooper Prince that you had a conversation on
6 (C) 's phone with Ms. Read, correct?

7 A Yes.

8 Q That you also called Julie Albert after you got off the
9 phone with Ms. Read the first time?

10 A Yes.

11 Q And then thereafter, at some point you talked to Tom
12 Beatty, correct?

13 A I never spoke with Tom Beatty.

14 Q I'm sorry. My mistake. I misspoke. You called Tom
15 Beatty. AYes, I called him.

16 Q You did not get through to Tom Beatty?

17 A No one answered, yes.

18 Q Then you spoke at the grand jury about the same issue.
19 Who did you talk to and who did you call in those minutes
20 after the initial call on (C) 's phone, correct?

21 MR. BRENNAN: I'm going to object. I'd like to be
22 heard.

23 THE COURT: All right. Come on up. Could you bring that
24 up, Mr. Jackson, please?

25 (Sidebar commences:

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-10

1 THE COURT: I believe this is improper impeachment.
2 What counsel is doing is taking the report written by
3 somebody else that is a summary of a conversation, and then
4 they're using that to try to create a pretense that this
5 was the entire conversation between Ms. McCabe and the
6 officer who wrote the report. It wasn't recorded. It's
7 not Ms. McCabe's recorded statements. And then what he's
8 going to do is he's going to try to compare it to sworn
9 testimony of Ms. McCabe and suggest because she said
10 something but didn't say something in the grand jury, it is
11 different than Ms. Read's report which summarizes the
12 conversation with somebody entirely different. That's
13 improper impeachment, and it implies that the witness lied
14 because a report written by somebody else may or may not be
15 consistent or has omissions from grand jury minutes. That
16 is unfair.

17 THE COURT: What do you say?

18 MR. JACKSON: This is the most standard cross-
19 examination that's ever been done. Of course, I'm going to
20 ask her about conversations --

21 THE COURT: All right. So let's back it down a little
22 bit.

23 MR. JACKSON: It's standard cross. I mean, I have no
24 idea what Mr. --

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-11

1 THE COURT: So question was regarding grand jury
2 testimony. So what are you doing with the grand jury
3 testimony? It's inconsistent with what?

4 MR. JACKSON: With what she later said in other -- it's
5 inconsistent with the facts that we will prove.

6 THE COURT: I'm going to let him do it, and you get to
7 back up and do it, but still object if it's -- if there's
8 another basis for it.

9 MR. BRENNAN: Okay.

10 THE COURT: And she adopted.

11 MR. BRENNAN: It's somebody else's words. It would be
12 different if it was trial testimony compared to grand jury
13 testimony. It would be different if it was federal grand
14 jury compared to trial. This is not her testimony. It's
15 creating the impression. It's creating the impression with
16 the jury that this is her testimony when it's not. It's
17 not quoted. It's whatever the state of the mind of the
18 officer is. And so it really creates a very unfair
19 pretense by doing it this way.

20 MR. JACKSON: My only resistance to that is that's not
21 true. I've used the report to refresh her recollection.
22 She just adopted her own statement to Trooper Prince.

23 THE COURT: So I agree. She said that it did refresh
24 her recollection and this is what she said, but it's fair
25 for you to get back up, just like it's fair cross-

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-12

1 examination. You've objected before when it's been clearer
2 when she's been asked, you know, or Proctor put in his
3 report and all of that. But this is -- she adopted and
4 she's said something like, I saw what it said, yes. Did it
5 refresh her recollection? Yes. So she adopted it, and
6 it's fair game for redirect.

7 All right. You're all set, Mr. Jackson.
8 end of sidebar.)

9 MR. JACKSON: May I, Your Honor?

10 THE COURT: Yes.

11 MR. JACKSON: Thank you.

12 Q Ms. McCabe, you were also asked the same series of
13 questions about or a series of questions about the same
14 events concerning that 4:53 phone call and the phone calls
15 that you made shortly thereafter, correct?

16 A Yes.

17 Q And in that testimony, you also, consistent with what
18 you said to Trooper Prince, said, "I spoke with Karen Read
19 on (C) 's phone. I then spoke with Julie Albert or I
20 called Julie Albert then I called Tommy," correct?

21 MR. BRENNAN: I object.

22 THE COURT: That objection is sustained.

23 Q Did you -- what did you tell the grand jurors about who
24 you called or who you attempted to communicate with in
25 those first few minutes after that 3:00 a.m. call?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-13

1 A I don't know exactly what I said on that day, but I
2 know who I spoke to.

3 Q You said on that day you spoke to Karen Read, correct?

4 THE COURT: On which day? What are we talking about?

5 MR. JACKSON: The date of the grand jury.

6 THE COURT: Okay.

7 MR. JACKSON: That would be April 26, 2022.

8 A I don't have the paper in front of me, so I don't know
9 my exact words.

10 Q Well, I'm not asking for your exact words, but did you
11 tell them as you sit here, do you remember telling the
12 grand jury, it was under questioning by the Commonwealth,
13 that you spoke to Karen Read?

14 A I spoke with Karen Read that morning. Again, I don't
15 -- I've been to many grand juries on different dates, so to
16 remember specifically, I don't remember specific questions
17 and specific answers, but, yes, Karen Read did call me that
18 morning on (c)'s phone.

19 Q My question is, what did you say to the grand jurors,
20 and you're you don't remember?

21 A What question are you asking me?

22 Q Who -- whom did you attempt to communicate with in
23 those first few minutes after your first received a phone
24 call from (c)'s phone?

25 A If you're asking me now, I can answer you.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-14

1 Q I'm asking you --

2 A In that -- I'm sorry. I don't remember the specifics.
3 If you to show me and then I can review it. I know the
4 answer to the question, I'm just not sure of my exact words
5 on that day.

6 Q I didn't ask you what your exact words were. I'm
7 asking you about memory.

8 You're testifying based on your memory, Ms. McCabe, are
9 you not?

10 MR. BRENNAN: I object.

11 THE COURT: All right. Go ahead and answer that
12 question. Are you answering these questions based on your
13 memory, Ms. McCabe?

14 THE WITNESS: So I'm answering my questions based my
15 memory of what happened on the 28th and 29th. I've
16 testified multiple times. I've been interviewed by
17 multiple police officers. To pinpoint one conversation is
18 a bit of a challenge for me. But what I can tell you is
19 what I remember from that day, which is, I'm sure, very
20 similar to however I answered because it's the same.

21 MR. JACKSON: May I approach?

22 THE COURT: Yes.

23 Q Would it refresh your recollection to look at a
24 transcript?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-15

1 THE COURT: Tell Mr. Brennan what page you're at,
2 please.

3 MR. JACKSON: Sure. One eighty-eight to one eighty-
4 nine.

5 MR. BRENNAN: Thank you.

6 A Thank you.

7 Q I didn't get an answer to that question, Ms. McCabe.
8 Would it refresh -- I just have to do this for the record.

9 Would it refresh your recollection to look at a
10 transcript?

11 A I'll look at it, yes (reading). Okay.

12 MR. JACKSON: May I approach?

13 THE COURT: Yes.

14 A Thank you.

15 Q Did that refresh your recollection about what you told
16 the grand jurors in terms of who you communicated with or
17 attempted to communicate with that morning?

18 A Yes.

19 Q What did you tell the grand jurors?

20 A I told them that I communicated with Ms. Read, and that
21 I called Julie Albert.

22 Q And Tom Beatty?

23 A Oh, and Tom Beatty, sorry.

24 Q So in both of those statements to Trooper Prince when
25 you asked about your communications, and at the grand jury

1 -- by the way, at the grand jury when you were asked who
2 you communicated that morning -- or who you communicated
3 with that morning, you didn't need to see a report, did
4 you? You didn't ask to see a report like you're doing
5 here?

6 A Well, I'm asking because you're asking specific
7 questions about what I said on a specific day, and
8 depending on who's asking the question, they ask questions
9 in a different manner.

10 Q So the Commonwealth --

11 A So the answer is always going to be the same. If you
12 ask me who I spoke to, I'm always going to tell you I spoke
13 to Ms. Read and Julie. I called Julie Albert and I called
14 Tom Beatty. The answers always the same, but the way the
15 question asked may be some of the words that I use maybe
16 different. I don't remember on specific days. I have been
17 questioned many times, but the answers are always going to
18 be the same. The wording may be different.

19 Q You done. Finished with that answer?

20 A Yes, I am.

21 MR. BRENNAN: Objection.

22 THE COURT: I'm going to allow that, but let's move on.

23 Q With --

24 MR. JACKSON: I'm trying, Your Honor.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-17

1 Q When the Commonwealth asks questions about who you
2 contacted that morning at the grand jury, you didn't even
3 have your recollection refreshed with anything. You said,
4 "I talked to Karen Read. I called Julie Albert. I called
5 Tom Beatty," correct?

6 A Correct.

7 Q And that's exactly what you told Trooper Prince as
8 well: Karen Read, Julie Albert, and Tom Beatty; is that
9 right?

10 A Yes, correct.

11 Q But you did make another phone call that morning that
12 you left out of those statements, didn't you?

13 A I'm not sure.

14 Q At 5:07 a.m., you called over to 34 Fairview, didn't
15 you?

16 A If it's in my phone record, then I must've.

17 Q It's in your phone records that you're aware of --
18 well, let me ask it a different way. You're aware that your
19 phone records actually show that at 5:07 you called to 34
20 Fairview Nicole Albert's phone, correct?

21 A Correct.

22 Q It shows also that that call lasted 38 seconds,
23 correct?

24 A I'm not sure what it shows.

25 Q You actually spoke to your sister Nicole that morning?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-18

1 A I did not speak to my sister, no.

2 Q So that 38 second call went to voicemail?

3 A I'm not sure. All I can tell you is I never spoke to
4 my sister Nicole that morning prior to waking her up.

5 Q But you do acknowledge that you made a phone call at
6 5:07 to Julie Albert -- I'm sorry -- to Nicole Albert your
7 sister over at 34 Fairview in those early morning hours,
8 correct?

9 A Yes, I learned after. When I was first being
10 questioned, it's days after. It was a chaotic morning. I
11 remember the Waterfall, Julie, then Tom Beatty. Calling to
12 my sister wasn't as important -- burned in my mind at that
13 point, no.

14 Q And then you testified at the grand jury not hours or
15 days later, you testified at the grand jury months later,
16 correct?

17 A Correct.

18 Q And at that grand jury, you also left out the fact that
19 you contacted your sister, correct?

20 A There was nothing -- there's nothing nefarious. I
21 remembered who I called. I didn't go back and look at
22 phone records.

23 Q I didn't say nefarious. Why would you use the word
24 nefarious?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-19

1 A Because it's nothing about me calling my sister that is
2 nefarious, and I feel like you're insinuating it might be,
3 that's why.

4 Q Did you use that word because it sounds nefarious?

5 A No, I just used the word because I think that's how
6 you're trying to portray something, but it's nothing.

7 Q Or did you use that word because you think that's how
8 it's coming across as nefarious --

9 A No.

10 Q -- that you leave out contacting 34 Fairview that
11 morning?

12 A No, not at all.

13 Q Later that morning on January 29 -- by the way, you do
14 see -- you do acknowledge that your phone records show that
15 you called at 5:07 a.m. to your sister's cell phone,
16 correct?

17 A I don't have them in front of me, but I believe that is
18 correct, yes.

19 Q Okay. Were you calling your sister's phone to alert her
20 of something, is that why you called?

21 A No.

22 Q Later that morning on January 29, after those initial
23 phone calls, and after the scene had been cleared at about
24 11:30 in the morning, you did have a formal interview with
25 Massachusetts state trooper Michael Proctor, did you not?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-20

1 A I did, yes.

2 Q The day before yesterday, you testified that Karen Read
3 -- actually I think it may have been Tuesday you testified
4 on direct examination Karen Read just showed up at your
5 house screaming, correct?

6 A Correct.

7 Q And point of fact, you told Michael Proctor in that at
8 11:30 a.m. or thereabouts that interview that morning, that
9 on January 29, when Karen was on the phone with you, you
10 told her to come to your house; isn't that true?

11 A No, I never told her to come to my house.

12 Q She told you she wanted to go search for John instead
13 of saying, I'll come meet you, or I'll go wherever you want
14 to go, you told her, no, no, no, come to my house, and pick
15 me up, and we'll go together, correct?

16 A No, that's incorrect.

17 Q Did you remember talking to Trooper Proctor on that
18 day?

19 A I do, yes.

20 Q Do you remember exactly what you told him concerning
21 the plan to either come to your house to go search for
22 John?

23 A There was never a plan for Karen to come to my house.

24 Q Do you remember exactly what you told him with that
25 regard on that issue?

1 A No, I don't.

2 Q Would it refresh your recollection to look at a police
3 report that he drafted on that issue?

4 A Those are his words or summary.

5 Q That's not my question. I know there are his words.
6 He wrote it. My question is would it refresh your
7 recollection about what you told him to take a look at his
8 report?

9 A I know what happened, and I know what I told him. I
10 don't know what's written in that report.

11 Q Yes or no?

12 A I don't need to see a report, no.

13 Q Because it would not refresh your recollection to see a
14 report where he indicated that you told him that you
15 directed Ms. Read to come to your house?

16 MR. BRENNAN: I object.

17 THE COURT: The objection is sustained. I'm going to
18 strike that, folks.

19 Q You also told --

20 MR. BRENNAN: I'd like to be seen on this.

21 THE COURT: Okay. Will you come to sidebar, please.

22 Jurors, feel free to stand up and stretch if you want to.

23 (Sidebar commences:

24 MR. BRENNAN: I'm not seeing it in the report --

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-22

1 MS. LITTLE: It says, "Jennifer told Karen to come to
2 her house on (f) [REDACTED], and they will go look for John
3 together."

4 MR. BRENNAN: What page you on?

5 MS. LITTLE: Page 2.

6 MR. BRENNAN: Oh, okay (reading). This is a different
7 report. Well, if it's there, it's there. My apologies.

8 MR. JACKSON: That's no problem.

9 MR. BRENNAN: I'm sorry to interrupt.

10 THE COURT: So it's not in evidence, and you didn't
11 refresh your recollection, so.

12 MR. JACKSON: I'm well aware of the evidence code,
13 Judge. I'm doing the best I can. I may adjust my cross-
14 examination back up to two hours, though.

15 THE COURT: Okay.

16 MR. JACKSON: Based on how the cross is going.

17 MR. BRENNAN: My regret.

18 end of sidebar.)

19 MR. JACKSON: May I?

20 THE COURT: Sure.

21 Q Ms. McCabe, during that same interview you also told
22 Trooper Proctor that while driving back to One Meadows,
23 after you had been picked up by Karen at your house, while
24 driving back to One Meadows, that's actually when Ms. Read
25 told you she may have broken her taillight, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-23

1 A Ms. Read told me in the morning at my house.

2 Q I know that's what you're testifying to now, what I'm
3 asking is what did you tell Michael Proctor on January 29,
4 what's freshest in your mind?

5 A That she had told me she had a cracked taillight when
6 she called me.

7 Q You didn't tell him that she indicated she noticed her
8 taillight had been damaged on the drive back to One Meadows
9 after she got to your house?

10 A She mentioned that as well, but she also had told me
11 when she was on the phone. That's why my husband yelled
12 out that we shouldn't be driving with a cracked taillight.

13 Q But in fact, you did not tell Trooper Proctor that
14 story. What you told him was she told you on the drive
15 back to One Meadows after having picked you up, correct?

16 A I told him she told me in the morning and on the drive
17 back.

18 Q So if he didn't write that in his report, it's
19 obviously incorrect?

20 MR. BRENNAN: Objection.

21 THE COURT: Sustained.

22 Q Of course that's drive back to One Meadows would have
23 been 5:30-ish or so, a little bit later, 5:35?

24 A Approximately, yeah. I'm not sure.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-24

1 Q Well after she backed out of the driveway and struck
2 another vehicle at One Meadows, correct?

3 MR. BRENNAN: Objection.

4 THE COURT: Do you know that?

5 THE WITNESS: No, I have no idea.

6 THE COURT: All right. Next question.

7 Q Speaking of Trooper Proctor, when you first interviewed
8 with him on that -- during that same interview on January
9 29, did you notice if was taking notes, obviously?

10 A Yes, he was.

11 Q You told him about your observations of the taillight
12 that date; is that right?

13 A I'd have to see the report, but I believe I told him
14 about it, yes.

15 Q And that was literally the same day that you made the
16 observation; is that right?

17 A Yes, it was.

18 Q He asked you to describe, specifically, what the
19 taillight looked like, and you did so, correct?

20 A Could I see the report?

21 Q All I'm asking right now -- I've got the report. If
22 you need it, I'll give it to you. I'm asking about your
23 memory, Ms. McCabe.

24 Did you tell him about what the taillight looked like?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-25

1 A If he asked me what the taillight looked like, then I
2 would have told what it looked like, yes.

3 Q And what you told trooper Proctor on that day is that
4 you, quote, saw a crack in it; is that right?

5 A I believe I said it was broken and cracked, and it was
6 missing pieces.

7 Q Isn't it true that what you actually said, "Is we got
8 out John's house and looked at the taillight, back right
9 taillight, saw a crack in it," correct?

10 A I said that I saw it, and it was cracked and it was
11 missing pieces.

12 Q You noted that he was taking notes, correct?

13 A Correct.

14 Q Have you ever seen those notes?

15 A No.

16 Q Would it refresh your recollection as to what you
17 actually told him in terms of the description to take a
18 look at these notes?

19 MR. BRENNAN: I object to the phrase.

20 THE COURT: So ask it differently. That's sustained.

21 MR. JACKSON: Sure.

22 Q Do you remember exactly the words you used in
23 describing that taillight to Trooper Proctor as you sit her
24 today?

25 A Again, the taillight was cracked and missing pieces.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-26

1 Q Okay. I know that's what you're testifying to today,
2 Ms. McCabe. We're all of aware. You said it four or five
3 times.

4 What I'm asking you is what did you tell Trooper
5 Proctor on January 29, that's my question. Do you remember
6 the exact words you used to him on the 29th?

7 A I believe I said it was cracked and missing pieces.

8 Q Do you know that or are you guessing?

9 A I'm not guessing.

10 Q Okay. Do you remember that specifically?

11 A I remember describing it as cracked and missing pieces.

12 Q Do you remember saying it had a crack or she saw a
13 crack in it?

14 A I do not remember saying that, no.

15 Q Would it refresh your recollection to look at a copy of
16 his notes?

17 A Those are his notes.

18 Q Ms. McCabe, we can do this all day.

19 Would it refresh your recollection to look at a copy of
20 his notes? If it wouldn't, just tell us.

21 A No, it wouldn't.

22 Q Okay. As you sit here today, are you telling this jury
23 that you denied saying to Trooper Proctor you saw a crack
24 in it. Are you denying that statement?

25 A I'm not denying it.

1 Q So you could have told him that?

2 A He asked me multiple times different questions. I
3 spoke to him at my house, and then he had called me. So
4 maybe one time I said it had a cracked in it -- a crack in
5 it, and another time I said it was broken and missing
6 pieces.

7 Q So it's very possible that that's how you described it
8 on the 29th, Ms. McCabe, it had a crack in it, right?

9 A And missing pieces.

10 Q I'm not asking you to finish my sentence. I'm asking
11 you is it possible that that's what you would told him that
12 day, it had a crack in it; yes or no?

13 A Yes, that was --

14 Q Thank you.

15 A Mm-hmm.

16 Q In the days following January 29, and the events of
17 January 29, 2022, were you and your family coordinating
18 your versions of the events that occurred on that morning?

19 A No.

20 Q Were you and your family coordinating some sort of
21 damage control in terms of the language that the family
22 would use to the public, to the press, to law enforcement?

23 A No.

24 Q Did you and your family use a group chat, you or part
25 of your family, use a group chat to text with each other

1 and to coordinate the communications with you with either
2 the press, the public, or law enforcement, family or
3 friends?

4 A I have a group -- I have multiple, like, group chats
5 with family and friends.

6 Q You had a very specific group chat that included
7 yourself, Nicole your sister, Brian Albert, and Matt
8 McCabe?

9 A Yes, I did.

10 MR. JACKSON: Your Honor, if I may?

11 THE COURT: Okay.

12 MR. JACKSON: I have a two-page document that I'd like
13 to have marked for identification.

14 THE COURT: All right.

15 MR. JACKSON: Ask to approach?

16 THE COURT: Sure.

17 A Thank you.

18 THE COURT: Did you show Mr. Brennan?

19 MR. JACKSON: Mr. Brennan, I failed to show you.

20 MR. BRENNAN: That's okay.

21 (Counsel confer.)

22 Q Can you tell me if you recognize what's depicted or
23 what's contained on that two-page document?

24 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-29

1 Q What are -- don't read it at this point, just tell me
2 what is that, what are we looking at?

3 A This is a -- it looks like a group chat with me and my
4 sister Nicole. Or, no, just actually conversations with
5 myself and my sister Nicole.

6 MR. JACKSON: May I approach?

7 (Whereupon Exhibit K, Texts Between Jen and Nicole, was
8 entered as an exhibit.)

9 Q Did you happen to catch the date on these threads?

10 A I didn't.

11 Q I took the document away. I apologize.

12 A That's okay. I didn't, no.

13 MR. JACKSON: May I approach?

14 THE COURT: Sure. Do you have an extra copy so she has
15 one and you have one, Mr. Jackson?

16 MR. JACKSON: I'll just leave that one. I don't have
17 an extra copy for myself. I'll leave that one for her.

18 A Thank you.

19 Q Do you note the date on that series of chats?

20 A Yes, it says 1/29/22.

21 Q Okay. Is that a chat between yourself and Ms. -- I'm
22 sorry -- yourself and Nicole, or does that include others
23 as well?

24 A I think it's just myself and Nicole.

1 Q There was another series of chats, and we'll get to
2 that in a second, that does include Nicole, Brian, Matt
3 McCabe, correct?

4 A Yes.

5 Q On this particular set of texts, do you see the first
6 text, starting in the green box, that is a text from you to
7 it says Coco, correct?

8 A Yes, that's my sister Nicole.

9 Q Okay. And do you recognize this text?

10 A I do, yes.

11 Q And do you recognize the texts following the bubbles?

12 A Yes.

13 MR. JACKSON: I'm going to ask that this be marked for
14 -- I'm sorry -- moved into evidence.

15 THE COURT: Is there any objection?

16 MR. BRENNAN: If I could review it briefly?

17 THE COURT: Sure. Why don't I see you at sidebar
18 briefly about this?

19 (Sidebar commences:

20 MR. BRENNAN: Okay. I don't have an objection to this,
21 but I think all of her text messages should come in to put
22 it in context rather than just admit these as out of her
23 texts. So there is a copy of all her text messages for a
24 number of days, and the defense is going to take little
25 pieces out, I think the whole texts should come in.

1 THE COURT: How many texts are we talking about?

2 MR. BRENNAN: We're talking about this many.

3 MS. MCLAUGHLIN: Three hundred and forty pages.

4 THE COURT: What do you say about that, Mr. Jackson?

5 MR. JACKSON: It's completely unnecessary. If Mr.
6 Brennan wishes to find other texts that he thinks somehow
7 obviates these then that's fine. These are certain texts
8 on that day about this subject matter, and that's why I
9 don't care about other texts that include where are the
10 basketball games and that they're having for dinner.

11 THE COURT: I'm not going to put in all 300 in response
12 to these texts coming in. You'll be able to add other
13 texts. Unless these are coming in through another witness
14 for another purpose.

15 MR. BRENNAN: Well then that's hearsay. She can be
16 impeached on something. She hasn't denied these texts.
17 It's not admissible evidence substantively, so I object to
18 that coming in.

19 THE COURT: All right. So what do they say?

20 MR. JACKSON: It's not offered for the truth of the
21 matter asserted. It's offered for the state of mind of the
22 declarants and the effect on the listener.

23 THE COURT: But what are they?

24 MR. JACKSON: Basically, the first text talks about
25 it's between Jennifer and Nicole talking Kerry, K-E-R-R-Y,

1 Roberts having talked to the police, how she spoke to the
2 police, that she kept it simple, they want to talk
3 tomorrow, give me updates. I'll get more information
4 tomorrow. This is on the 28th -- the 29th. The tomorrow
5 was the 30th. It deals directly with the like visit. She
6 says right, and then it finishes with Nicole saying, "Text
7 me in the morning. Let me know if you hear anything."

8 MR. BRENNAN: So my two issues are, even though it's
9 state of mind, which I agree it doesn't make it admissible
10 hearsay. That's not admitted substantively. It's to show
11 her state of mind.

12 Secondly, if they're going to take text message between
13 her and Kerry, these text messages show about their entire
14 state of mind over the next couple days, among other
15 people. So that selective offer of a couple of text
16 messages between them doesn't tell the full story. So it's
17 trying to portray it as sinister. When the people look at
18 all the text messages, it's in totally normal relationship
19 to the circumstances. So while I can parse these down, if
20 they're going to take pieces of conversations to talk about
21 Jen McCabe's state of mind, you should have the full state
22 of mind for that period of two days.

23 MR. JACKSON: This specifically impeaches what Mr.
24 Brennan brought out on direct examination that Jennifer
25 McCabe was just sort of a backstreet passenger in this

1 whole thing, that Kerry Roberts was the one controlling
2 everything. She was dictating everything. She was in
3 charge. And it goes to her state of mind as well as what
4 she was thinking, about how she was going to control the
5 narrative using Kerry Roberts for --

6 THE COURT: Okay. May I just see it for a minute,
7 please?

8 MR. JACKSON: And these were admitted at the last trial
9 as well.

10 THE COURT: Yeah.

11 MR. BRENNAN: That was not meant --

12 MR. JACKSON: The exact -- the exact texts.

13 MR. BRENNAN: That was not my material on direct. She
14 said that Kerry controlled it in the car. I never made a
15 suggestion. There's no inference that Jen McCabe was --
16 Kerry Roberts was controlling the entire day.

17 THE COURT: All right. So what I'm going to do first,
18 and the main reason I called you over here -- I'll give
19 that back to you, Mr. Jackson -- is I have to give an
20 instruction, and I didn't want to interrupt officer or
21 Trooper Guarino when he was reading the texts. But I'm
22 going to give an instruction that the jury first has to
23 believe that they are what in fact they say they are.

24 MR. JACKSON: Sure.

1 THE COURT: I can wait until the end, but I was going
2 to do it soon anyway. So I'll do it now, and I'll say that
3 these messages are being used not for the truth of what's
4 in the report, but the state of mind of the declarant and
5 the recipient. And then you can do what you want to do or
6 try whatever you want to do on redirect with these.

7 My guess is we'll also have a morning break before the
8 redirect to see if you have additional text messages.

9 MR. BRENNAN: So in addition to the content, Your Honor
10 is going to allow this in substantively?

11 THE COURT: I'm going to allow it in for state of mind
12 evidence.

13 MR. BRENNAN: The document is going to come in?

14 THE COURT: Is the document coming in?

15 MR. JACKSON: Yes.

16 MR. BRENNAN: And that's my objection because it gives
17 undue attention to a limited portion of her state of mind.
18 And so I understand your ruling, I'm not going to argue
19 against it, but my point is if they want to bring in a
20 fraction of her state of mind and try to portray or draw an
21 inference from it, we should have her full state of mind at
22 that time.

23 THE COURT: So you can put in -- what are the times on
24 this? Date and time. It's the same date, right?

25 MR. JACKSON: January 29. Time is about 7:30 at night.

1 THE COURT: All right. Are all of those 300, January
2 29, at that period of time?

3 MS. MCLAUGHLIN: In the evening of the 28th.

4 MR. BRENNAN: It's the 29th and then it goes back to
5 the 28th, so I think for other -- oh, it goes to the 30th,
6 so I guess we don't need it to them, but I can limit it to
7 the 29th.

8 THE COURT: So you can make that argument at the time.

9 MR. BRENNAN: Okay.

10 THE COURT: So we'll do this sort of piecemeal. I
11 think you are probably back to the two hour cross, which
12 is --

13 MR. JACKSON: With this, probably.

14 THE COURT: -- fine. So, all right, that's marked for
15 identification. I will let you put it into evidence. Do
16 not display it until I give those two instructions.

17 MR. JACKSON: Understood. And there's another, just so
18 we don't have to approach again, I've got another set of
19 texts.

20 THE COURT: Well, that's what I was wondering if these
21 are coming in now.

22 MR. BRENNAN: Can I take a look at this for a sec?

23 MR. JACKSON: Sure.

24 THE COURT: Mr. Jackson, tell me the time frame on what
25 you have in your hand?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-36

1 MR. JACKSON: January 29th going from 7:54 p.m. until
2 the last text is 8:01 p.m.

3 THE COURT: Okay. And then one you just provided Mr.
4 Brennan now?

5 MR. JACKSON: I'll have to look at those.

6 MR. BRENNAN: I have the text messages --

7 THE COURT: No, I understand.

8 MR. BRENNAN: -- they're in this package here.

9 THE COURT: It's the packet that you have.
10 end of sidebar.)

11 THE COURT: Jurors, feel free to stand up and stretch.
12 (Sidebar commences:

13 THE COURT: When -- how quickly -- when are you putting
14 this in?

15 MR. JACKSON: Right after this.

16 MR. BRENNAN: So, again, I'm going to object because
17 again -- for two reasons. One, we're putting state of mind
18 evidence into a written form which makes it para-
19 substantive evidence to the jury, and so it would be
20 difficult for them to be discern. It gives undue attention
21 to mere statements regarding her state of mind.

22 The second objection will be the same that if we're
23 going to introduce these, we should be able to show her
24 entire state of mind around that critical point in time.

25 THE COURT: All right. So what is the timeline?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-37

1 MR. BRENNAN: Do you want me to read it?

2 MR. JACKSON: Sure.

3 MR. BRENNAN: It looks like the first text message is
4 February 1, 2022, at 12:48. That goes to February 1, 2022,
5 at 5:34. So, again, this would expand my request.

6 THE COURT: Okay. Then -- and your request may be more
7 reasonable given all this, so. You'll need a question in
8 between because that's a big gap.

9 MR. JACKSON: Understood. Understood. I intend to lay
10 the foundation.
11 end of sidebar.)

12 THE COURT: All right. So the objection is noted and
13 overruled. So, Mr. Jackson, you put that K for
14 identification is now an exhibit.

15 MR. JACKSON: May I approach?

16 THE COURT: Yes.

17 (Whereupon Exhibit No. 47, Texts Between Jen and Nicole
18 (formerly K), was marked as an exhibit.)

19 MR. JACKSON: Thank you, Your Honor. Before I
20 proceed --

21 THE COURT: All right. No, and I'm -- jurors, before
22 you consider any electronic communications in your
23 deliberations, and you heard Trooper Guarino read a lot of
24 text messages the other day. I didn't interrupt him, I
25 probably should have, but before you consider any

1 electronic communications in your deliberations, you must
2 first find that it is more likely true than not that the
3 person who either authored or created or transmitted the
4 communication was in fact the person alleged. So here we
5 have communications between -- allegedly between Ms. McCabe
6 and her sister. Before you can consider them, you must
7 find that it's more likely than not that they were the
8 people who sent and received those.

9 If you do not find it's more likely to than not, if the
10 person alleged to have created or sent them, then you may
11 not consider the electronic communication in deciding your
12 case.

13 Now, when you read or hear about these text messages,
14 you may not consider the statements for their truth, but
15 you may consider them solely for the limited purpose of
16 just understanding the state of mind of, here, Ms. McCabe
17 when she sent those messages.

18 All right. So that that's what I needed to do. Mr.
19 Jackson, your turn.

20 MR. JACKSON: Thank you, Your Honor. With the Court's
21 permission I would ask that the January 29, text be
22 published.

23 THE COURT: Yes.

24 MR. JACKSON: Your Honor, may I approach just to
25 retrieve the exhibit.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-39

1 A Thank you.

2 Q You're welcome.

3 THE COURT OFFICER: Your Honor, some of the jurors --

4 THE COURT: Yeah, I was just going to say, could you
5 please enlarge that?

6 MR. JACKSON: Anyway to make that bigger? We'll take
7 one bubble at a time.

8 THE COURT: Ms. McCabe, do you need lights on or are
9 you okay?

10 THE WITNESS: Oh, I'm okay.

11 THE COURT: All right.

12 THE WITNESS: Thank you.

13 Q Ms. McCabe, is this -- does this appear to be a
14 representative copy of what you're looking at that's just
15 been marked for evidence?

16 A Yes, it does.

17 Q Starting at that top text which is the green bubble
18 here, can you see at the very top where it says from
19 there's a redaction?

20 A Yes.

21 Q The last four digits of that phone number, do you
22 recognize that?

23 A Yes.

24 Q Is that your phone number?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-40

1 Q Do you see just been it, it says a two and there's a
2 line that says Coco?

3 A Yes.

4 Q Is that your sister?

5 A Yes.

6 Q That's Nicole?

7 A Yes.

8 Q And if you look down at the bottom right corner of this
9 exhibit, do you see a time and date stamp?

10 A Yes, I do.

11 Q What is that time and date?

12 A It's 1/29/22 at 7:54.

13 Q Is that 7:54 p.m.?

14 A Yes.

15 Q Can you read for the jurors what you texted to your
16 sister at 7:54?

17 A Sure. "Kerry talked to the cops and kept it simple."

18 Q Who's Kerry?

19 A Kerry Roberts.

20 Q And this is a text that you sent about Ms. Roberts's
21 interview with the police?

22 A Yes, it is.

23 MR. JACKSON: Mr. Wolk, can we pull up the next text,
24 please?

25 Q Do you see the response in the blue bubble?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-41

1 A Yes, I do.

2 Q Who's responding to whom?

3 A I'm responding to my sister Nicole.

4 Q Can you please tell us the time -- we know it's the
5 same date. What time is that?

6 A That would be 7:50 -- sorry 7:56 or 58. I'm sorry.
7 I'm not sure if that's an eight or a six.

8 Q I may have misheard you. The blue bubble is from whom?

9 A It's from my sister Nicole.

10 Q To whom?

11 A To me.

12 Q Okay. I may have misheard you. I thought you said the
13 reverse. I want to make sure we're very clear.

14 The blue bubble is from Nicole. The green bubbles are
15 from you?

16 A Yes, correct.

17 Q Got it. And this text says -- I'm sorry read that for
18 me one more time?

19 A Sure. "Okay. Try to get some more sleep. Talk
20 tomorrow."

21 Q Next text, please. What's the time of this text?

22 A 7:57.

23 Q This is from you to Coco, to Nicole?

24 A Yes.

25 Q What does that text say?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-42

1 A "Any update."

2 Q What did you mean by any update?

3 A I mean had she heard anything or learned anything new.

4 Q Next text, please.

5 Do you see a response from your sister to you?

6 A Yes.

7 Q What does that say?

8 A "Will get more info tomorrow. Don't want to text about
9 it."

10 Q Next text, please.

11 Is this a text from you to your sister Nicole?

12 A Yes, it is.

13 Q What does that say?

14 A "Right."

15 Q Next text, please.

16 What is the date and time of this text?

17 A It is 1/29 and 2022 at 8:01 p.m.

18 Q And this is in response to the text that you just read
19 from you to your sister?

20 A Yes.

21 Q And this is now a text from your sister back to you,
22 correct?

23 A Correct.

24 Q What does this text say?

25 A "Okay. Text me in AM, or if you hear anything later."

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-43

1 Q Thank you. You could you bring the lights up for just
2 a moment.

3 One of the texts, the third from the bottom text on the
4 second page, in other words the top text on the page, was
5 from your sister to you, "Will get more info T-O-M-M,"
6 correct?

7 A Yes.

8 Q Don't want to text about it, correct?

9 A Yes.

10 Q TOMM means tomorrow?

11 A Yes.

12 Q This was January 29th of 2022, correct?

13 A Yes.

14 Q Tomorrow would have been January 30?

15 A Yes.

16 Q 2022; is that right?

17 A Yes.

18 MR. JACKSON: Your Honor, I'm holding another document.
19 This is a multipage document. Eight pages in total length.
20 There's a Bates page on the bottom 02148.

21 MR. BRENNAN: Thank you.

22 MR. JACKSON: May I approach the witness?

23 THE COURT: Yes.

24 A Thank you.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-44

1 Q Can you please take a look at that document, flip
2 through it, and let me know when you're finished?

3 THE COURT: And this is the document we discussed at
4 sidebar?

5 MR. JACKSON: It is, Your Honor.

6 A (Reading.)

7 MR. JACKSON: May I approach, Your Honor?

8 THE COURT: Yes.

9 MR. JACKSON: May I stand at the witness stand for just
10 a second?

11 THE COURT: Okay. You don't have a separate copy for
12 Ms. McCabe?

13 MR. JACKSON: I do. I'm going to hand you this one and
14 ask this be marked. Just a couple of foundational
15 questions.

16 Q Ms. McCabe, do you recognize what's depicted in these
17 documents?

18 A Yes.

19 Q Does this appear to be a group chat between and among
20 yourself, Nicole Albert, Chris Albert, and Matt McCabe?

21 A I don't believe Chris Albert's on that.

22 Q I'm sorry. My mistake. Brian Albert?

23 A Yeah, Brian was.

24 Q So the four of you?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-45

1 Q And does this appear to be a group chat that was
2 engaged between and among you all on February 1, starting
3 -- I'm going to try to bookend it, starting at about noon
4 ending at about 5:00 or 5:30 that evening?

5 A I didn't look, but I'll take your word for it.

6 Q If you could just look at the first one or two?

7 A Okay. Yeah, February 1. Yes.

8 Q Ignoring the top one. The top one has nothing to do
9 this.

10 A Okay. Yeah.

11 Q And then the last one, same date around 5:30, too?

12 A Yes.

13 MR. JACKSON: May I approach?

14 THE COURT: Yes.

15 MR. JACKSON: I'd ask that this be marked.

16 THE COURT: All right. Same -- for identification or in
17 evidence?

18 MR. JACKSON: Into evidence.

19 THE COURT: Same objection, Mr. Brennan?

20 MR. BRENNAN: Please.

21 THE COURT: Yes, that can come into evidence.

22 (Whereupon Exhibit No. 48, Group Texts Between Jen, Nicole,
23 Brian Albert, and Matt McCabe, was marked as an exhibit.)

24 THE COURT: And, jurors, the same instruction regarding
25 the electronic communications, and the same instruction

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-46

1 regarding this is not to be used for the truth of what's in
2 there, but simply as it goes to Ms. McCabe's state of mind.

3 MR. JACKSON: With the Court's permission to publish,
4 please?

5 THE COURT: Yes.

6 MR. JACKSON: Please show the second text down. Mr.
7 Wolk, can you make that a little bigger? I apologize.
8 Thank you.

9 Q Do you recognize what's depicted both on the screen and
10 in your hand?

11 A Yes.

12 Q Does it appear to be the same thing?

13 A Yes.

14 Q Okay. Take a look at that first text. Who's that from
15 and who is it to?

16 A It's from Brian Albert and it's to myself, my sister
17 Nicole, and Matt McCabe my husband.

18 Q And if you could orient us, please, and I won't do this
19 with every single text, but orient us for the first text,
20 what dates and times are this text?

21 A This is February 1, at 12:50.

22 Q So this is about three days after the event in
23 question?

24 A Yes.

25 Q 12:50, noon?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-47

1 A Noon.

2 Q Just before 1:00 p.m.?

3 A Yes.

4 Q What does that text say?

5 A "Julie said Channel 4 is in D&E."

6 Q And that's from whom?

7 A Brian.

8 Q So Brian Albert is -- explain what that text means?

9 A So Brian Albert is telling us that channel -- that
10 Julie told him Channel 4 is in D&E.

11 Q Who's Julie?

12 A I'm sorry. Julie Albert.

13 Q Thank you. Let's go to next text.

14 Is this in response to the text that you just read?

15 A Yes.

16 Q The prior text mentioned Channel 4 in D&E. What is
17 D&E?

18 A D&E is a sub shop that is owned by Chris Albert.

19 Q Is that in Canton?

20 A Oh, I'm sorry. Yes, it's in Canton.

21 Q On the main street of Canton?

22 A Yes.

23 Q Directly next door to what?

24 A Waterfall.

25 Q Across the street from Waterfall?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-48

1 A I'm sorry. CF McCarthy's, yeah.

2 Q Thank you. Across the street from Waterfall, directly
3 adjoining -- adjoining wall to CF McCarthy's, correct?

4 A Yes.

5 Q And D -- is it D and E or D-N-E.

6 A D and E.

7 Q D and E, okay. That's just the name of the pizza or
8 sub shop?

9 A Yeah.

10 Q Thank you for that context, Ms. McCabe. Can you read
11 what this text says, who it's from and who it's to?

12 A This is from Matt McCabe to myself, my sister Nicole,
13 and Brian.

14 Q Can you read it for us, please?

15 A Sure. "Eating I assume. Ask Chris to ask some
16 questions. Tell him the guy never went into the house."

17 Q "What does tell him the guy never went into the house,"
18 mean to you? How did you take that?

19 A I took that as John never came in the house.

20 Q Who's the guy?

21 A John.

22 Q John O'Keefe?

23 A Yes.

24 Q And the beginning of that sentence is, "Tell them that
25 the guy never came in the house," correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-49

1 A Yes.

2 Q And the sentence before that is, "Ask Chris to ask some
3 questions," correct?

4 A Yes.

5 Q So this is Matt McCabe directing that Chris ask
6 questions of Channel 4, correct?

7 A I wouldn't say directing.

8 Q Whatever word you want to use, he was --

9 A No, I'm saying that --

10 Q Suggesting?

11 A I think we're all looking to find out what happened, so
12 Matt was like, ask some questions, what do they know.

13 Q And also indicating that Chris should tell them the guy
14 never came in the house, correct?

15 A John never came in the house, correct.

16 Q Okay. Next text, please.

17 Who is this text from and who is to?

18 A Okay. This text is from Brian to myself, to Nicole, and
19 to Matt.

20 Q Brian who?

21 A Sorry. Brian Albert.

22 Q And this is in response to the text above that you just
23 read, correct?

24 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-50

1 Q Where Matt McCabe said tell Chris to find out, get an
2 update or something, and tell them that the guy never came
3 in the house?

4 A Yes.

5 Q This is in response to that text?

6 A Yes.

7 Q And what does Brian Albert respond?

8 A Exactly.

9 Q One word, correct?

10 A Yes.

11 Q Next text, please.

12 This is a green box so I presume this is you?

13 A Yes, it is.

14 Q And this is to whom?

15 A To Nicole, to Brian, to Matt.

16 Q And what does your text read?

17 A It means, oh, my God.

18 Q It's ONG, but it meant to be OMG, correct?

19 A Yes, I do a lot of errors.

20 Q Which stands for, "Oh, my God?"

21 A Yes.

22 Q Next text, please.

23 Who is this from and who is that to?

24 A So this is from my sister Nicole to myself, to Brian,
25 and to Matt.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-51

1 Q And what does that text read?

2 A It says, "I assume it's just to eat, but, Brian, if she
3 is there, ask her what the deal is."

4 Q Next text, please.

5 Before I ask you about this text, the last text that
6 was from whom one more time?

7 A My sister Nicole.

8 Q It was from your sister Nicole?

9 A Yes.

10 Q And she mentions that she a she, pronoun she?

11 A Yes.

12 Q Is that referring to Julie Albert?

13 A To be honest, I don't know who she's referring to.

14 Q Well, remember the first text started -- or did the
15 first text start with someone reporting that Julie said
16 that Channel 4 was it D&E?

17 A Yes, it did.

18 Q So would that prior text mean get Julie Albert to get
19 some updates on what's going on?

20 A I'm --

21 Q Let's go back to that last text one more time.

22 A Yeah, I ...

23 Q Do you see where it reads, "If she's there?" Does that
24 mean if Julie is at D&E, hence she just reported that
25 Channel 4 is there?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-52

1 A I'm truly not sure who she's referring to as the she.

2 Q Okay. Fair enough. Let's go to the next text, please.

3 MR. JACKSON: Mr. Wolk, I think you missed one. The
4 one above it.

5 Q Who's this text from and who is it to?

6 A This text is from myself, and it is to my sister
7 Nicole, to Brian, and to Matt.

8 Q And what does this read?

9 A This says, "To ask if we heard if she is a mental
10 hospital."

11 Q Next text, please. Who is this is from and who is it
12 to?

13 A This is from me to my sister Nicole, to Brian, and to
14 Matt.

15 Q What's the time on this text?

16 A 2:55.

17 Q And what does it read?

18 A "Kerry is here going over timeline."

19 Q Who is the Kerry referring to?

20 A Kerry Roberts.

21 Q What is here?

22 A I would assume here with me in my house.

23 Q Next text, please. Who is this from and who is it to?

24 A This is from Brian to me, to Nicole, to Matt.

25 Q And what does this text read?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-53

1 A "I did hear that."

2 Q Next text, please.

3 A Who is this text from and who is it to?

4 A This text is from me to my sister Nicole, to Brian, and
5 to Matt.

6 Q What does it read?

7 A "And we handed the phone to Kerry."

8 Q Who is Kerry?

9 A Kerry Roberts.

10 Q What phone are you referring to?

11 A Mine.

12 Q Who was on the other end of that phone?

13 A On February 1, I believe it could have been Michael
14 Proctor.

15 Q Next text, please.

16 Q Who is that from and who is it to?

17 A This is from me, to Nicole, to Brian, and to Matt.

18 Q What does it read?

19 A She is telling him everything.

20 Q Everything is in all caps with an exclamation point,
21 correct?

22 A Yes, it is.

23 Q What's the timestamp on this, Ms. McCabe?

24 A 2:55.

25 Q Who is the him that you're referring to in this text?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-54

1 A I believe it was Michael Proctor.

2 Q Next text, please.

3 Who is this from and who is this to?

4 A This is from me to Nicole, to Brian, to Matt.

5 Q What's the timestamp on this text?

6 A 2:55.

7 Q Same minute that you sent the last text?

8 A Yes.

9 Q "She's telling him everything."

10 A Yes.

11 Q And then you follow up with what?

12 A "All the stuff."

13 Q Next text, please. Who is this responding text from?

14 A This is from Matt to myself, Nicole, and Brian.

15 Q And what is the timestamp on this?

16 A 4:35.

17 Q What does the read?

18 A "Yep, if she pleads out, it will end. If she fights it,
19 it will be an episode."

20 Q Who is she?

21 A I am assuming that would be Ms. Read.

22 Q The next text, please. Who is this from and who is it
23 to?

24 A This is from Nicole, to me, to Matt, and to Brian.

25 Q And what does this read?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-55

1 A She liked the text above.

2 Q The previous text?

3 A Yes.

4 Q Meaning like a thumbs up or a like?

5 A Yeah, it just says like, so.

6 Q The that reads, "Yeah, if pleads, it will end. If she
7 fights, it will be an episode."

8 A Yes.

9 Q Next text, please. Who is it from and who is it to?

10 A This is from Matt. Oh, sorry. From me, to Nicole, and
11 to Brian.

12 Q And what does this read?

13 A Brian sitting separate.

14 Q Is that a period or a comma? I obviously can't see.

15 Is that a period or a comma between Brian and sitting, or
16 can you tell?

17 A I can't tell if it is or if it's just like the way it
18 printed out. I'm not sure.

19 Q The next text, please. Who is this from and who is it
20 to?

21 A Brian to me, Nicole, and Matt.

22 Q What's the timestamp on this?

23 A That is 4:55.

24 Q And what does that text read?

25 A "Okay."

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-56

1 Q And the next text? This is another green bubble.

2 Who's this from and who's it to?

3 A This is me, Matt -- I'm sorry. Me, Nicole, Matt, and
4 Brian.

5 Q And what did you say -- what did you write in this
6 text?

7 A I wrote, "You listening."

8 Q And what's the timestamp on this?

9 A That is 5:15.

10 Q I'm sorry. It would be what time?

11 A Oh, I'm sorry. 5:15.

12 Q And in fact at 5:15, Ms. Roberts was in your house
13 being personally interviewed by Massachusetts State Police,
14 correct?

15 A They were there. I'm not sure if this is the exact
16 time but, yes, they did come over.

17 Q Just to be clear and to orient us, there was a phone
18 conversation that you were privy to between Kerry Roberts
19 and Michael Proctor, telephonically, correct?

20 A She was at --

21 Q Earlier in the day.

22 A Yeah, earlier in the day, he had called me and then
23 Kerry had asked to speak with him.

24 Q And that's the handed her the phone, correct?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-57

1 Q And later, a couple of hours later, five-ish or so, she
2 was still at your house, Michael Proctor came over and
3 interviewed her at your home?

4 A No.

5 Q I'm sorry. Not Michael Proctor. Massachusetts State
6 Police.

7 A Came over and spoke to myself, her, and Matt.

8 Q And you listening to the group, correct?

9 A Yes.

10 Q Who was that specifically directed to?

11 A I honestly don't know.

12 Q Was there anybody else in the house during her
13 interview other than you and the troopers?

14 A My husband Matt, my daughter, her friend, my other
15 daughter.

16 Q So of the people on this text chain, the only people
17 that would have been in the house that could have
18 conceivably quote/unquote listened would be Matt McCabe,
19 correct?

20 A Yes.

21 Q Next text, please. Who is this from and who is it to?

22 A It's from me, to Matt, Nicole, and Brian.

23 Q What does it read?

24 A "Cops here again."

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-58

1 Q You were reporting to the others on this text stream
2 that the police had arrived at your house? They were in
3 your house with you and Kerry as you just described,
4 correct?

5 A Yes, I was just telling them that they were here again.

6 Q Next text, please. This is from and who is it to?

7 A This is from my sister -- sorry -- Nicole to myself,
8 Brian and Matt and Nicole says, "Call us after."

9 Q And what time was this?

10 A This was 5:23.

11 Q Did you take this to mean that she wanted you to call
12 the group after Kerry Roberts' interview and update about
13 them about that interview?

14 A I took it that she just wanted -- yeah, to call and see
15 what the cop said, and if there was any update, any
16 information.

17 Q Next text, please. Who is this from and who is it to?

18 A This is from Matt, and it's to myself, Nicole, and
19 Brian.

20 Q What time was this?

21 A This is at 5:31.

22 Q And 5:31, what does Mr. McCabe write to the group?

23 A "This girl could write a book. Nonstop."

24 Q Was that in reference to Kerry Roberts having her
25 interview with the Massachusetts State Police?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-59

1 A Yes, it was.

2 Q And the "this girl" is Kerry, correct?

3 A Yes.

4 Q Next text, please. Who is this from and who is this to?

5 A This is from me to Nicole, Brian, and Matt.

6 Q What time was this text?

7 A 5:32.

8 Q And what do you write to the group?

9 A "I love it."

10 Q And is this in direct response to Matt McCabe's, your
11 husband's text, about Kerry Roberts could write a book,
12 correct? A Yes.

13 Q Suggesting that both you and Mr. McCabe were listening
14 to her interview, correct?

15 A We could hear different parts of it, correct.

16 Q Next text, please. And who's this from and who is it
17 to?

18 A This is from me to Nicole, to Brian, and to Matt.

19 Q And what do you write --

20 A I wrote, "She is telling them everything."

21 Q Similar to the text that we earlier saw that was in all
22 caps where you indicated she's telling them everything,
23 correct?

24 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-60

1 Q On the phone. That was in reference to what she was
2 saying on the phone.

3 A Yes.

4 Q This is in reference to the live interview, correct?

5 A Yes.

6 Q Also indicating that you were listening to and have --
7 were privy to the content of her conversation with the
8 police?

9 A I could hear bits and pieces of it, yes.

10 Q Enough to say that she's telling them everything?

11 A When I use the word everything, it was -- I meant in
12 the -- not only was she telling them what had happened, but
13 she was also telling them opinions and different things.

14 Q Okay. So you could hear that much?

15 A I could hear her saying some opinions.

16 Q Next text, please. Who's this from and who's it to?

17 A This is from my sister Nicole to myself, to Matt, and
18 to Brian.

19 Q And this is in response to, "She is telling him
20 everything," correct?

21 A Yes.

22 Q And the text reads what?

23 A "Good."

24 Q Next text, please. Who's this from and who's it to?

25 A This is from Matt to myself to Nicole and to Brian.

1 Q And what does it read?

2 A He says, "Going to miss the basketball team at this
3 rate."

4 Q You mean Matt says.

5 A Oh, sorry. Matt says, "Going to miss the basketball
6 game at this rate."

7 Q Indicating that he was still in the house, still privy
8 to the conversation between Kerry Roberts and the
9 Massachusetts State Police?

10 A He was waiting for them to talk, for Kerry talk was --
11 as he said, she could write a book. So he felt he was
12 going to miss the game because she just kept talking.

13 Q Next text, please. That would be the end of it?

14 A Yeah.

15 Q Is that the last text on the page?

16 A Yes, it is.

17 MR. JACKSON: May I approach, Your Honor?

18 THE COURT: Yes.

19 A Do you want both of them?

20 Q Yes, please.

21 Ms. McCabe --

22 A Yes.

23 Q -- these text messages were on a private chat, both the
24 one between you and your sister as well as the group chat,

1 correct? It was a private chat. It's not open to the
2 public?

3 A Correct.

4 Q You never intended, obviously, for any of those texts
5 to become public, correct?

6 A It was -- I handed my phone over so I knew all my texts
7 would be seen.

8 Q When you were writing the text, when the group was
9 chatting back and forth or texting back and forth, those
10 were intended to be private texts between and among just
11 the people on that text string, correct?

12 A I just was texting my family. I was thinking anymore
13 who was going to see it.

14 Q You certainly did not expect, when you were writing
15 those texts, that the defense, Ms. Karen Read's
16 representatives, would ever get a hold of those texts.
17 That was not in your mind, correct?

18 A It would have never been in my mind, no.

19 Q That is a textbook example, what we've just seen, of
20 witnesses colluding with one another about the subject
21 matter that's under investigation, correct?

22 MR. BRENNAN: I'd move for an instruction.

23 THE COURT: All right. Jurors, disregard that comment
24 completely. Disregard that question.

25 MR. JACKSON: Your Honor, may we approach?

1 THE COURT: Yes.

2 (Sidebar commences:

3 MR. BRENNAN: Opinions and inflammatory comments are
4 not evidence where it leaves a great impact on the jury.
5 Mr. Jackson likely doesn't care what the answer is. The
6 objection to draw attention to it, and then vesting that in
7 the jurors' minds with no basis in evidence is
8 inflammatory, it's unfairly prejudicial, and I would
9 suggest that not only should there be a curative
10 instructions when those comments are made, they should be
11 prohibited.

12 THE COURT: It's argumentative, Mr. Jackson.

13 MR. JACKSON: It's not argumentative. I asked the
14 question, is it colluding.

15 THE COURT: Textbook.

16 MR. JACKSON: Okay. I'll take textbook out.

17 THE COURT: No.

18 MR. JACKSON: Is that --

19 THE COURT: The question --

20 MR. JACKSON: -- an example of witnesses colluding with
21 and among each other? That is a perfectly reasonable
22 question given what we've just seen. It's a fact question.

23 THE COURT: I find that it's not. I'm excluding the
24 question.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-64

1 MR. JACKSON: And I'll take the word textbook out and
2 ask the question again. I'm entitled to her response, and
3 the jurors are entitled to hear what her response is --

4 THE COURT: And --

5 MR. JACKSON: -- to obvious collusion between and among
6 witnesses in this case, I should be able to ask her is that
7 what you were doing, and if --

8 THE COURT: You can ask her if she was colluding.

9 MR. JACKSON: Okay. Thank you.

10 end of sidebar.)

11 MR. JACKSON: May I, Your Honor?

12 THE COURT: Yes.

13 MR. JACKSON: Thank you.

14 Q In the texts that we just saw, you were colluding with
15 other witnesses, percipient witnesses in this case through
16 those text messages, were you not?

17 A I was not.

18 Q You were organizing your statements to the police based
19 on what you overheard or what you heard during Kerry
20 Roberts' interview with the Massachusetts State Police,
21 weren't you?

22 A No, I was not.

23 Q You were reporting back to other percipient witnesses
24 what you heard and saw during other witnesses' statements
25 to the police, to wit: Kerry Roberts, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-65

1 A I was telling them that Kerry was speaking to police.

2 Q And you told them, she's telling them, "everything,"
3 correct?

4 A Yes, I told them something opinions that she stated.

5 Q And when Mr. McCabe said, "She could write a book," in
6 other words she's going on and on, your statement was, "I
7 love it," correct?

8 A Yes.

9 Q And you reported back to other witnesses who were not
10 privy to Ms. Roberts's statements to police, correct?

11 A To my sister and to my brother-in-law, yes.

12 Q And then your sister asked for updates when Kerry
13 Roberts was done, correct?

14 A I don't know if it was in regard to updates when she
15 was done, or updates like did they tell us anything, was
16 anything new. We were still all trying to figure out what
17 had happened.

18 Q The four of you were discussing the facts surrounding
19 this case not only with each other, but discussing
20 interviews, formal police interviews, that you heard or
21 overheard with another witness, weren't you?

22 A I told them some of the things that Kerry Roberts said,
23 yes.

24 Q And you were happy about what she said after you had
25 created this timeline with her, correct?

1 A The timeline had nothing to do with it.

2 Q But it was certainly chronologically. Her interview
3 with the police was after this timeline had already been
4 created between you and Kerry Roberts, correct?

5 A Yes, we both put down what had happened so we would
6 remember.

7 Q And then once she was interviewed, you were responding
8 to the rest of the group. She's telling them everything,
9 meaning everything we just crafted in this timeline, right?

10 A No, I meant she was telling them everything. She was
11 telling her personal opinions about Ms. Read.

12 Q I want to change gears for second Ms. McCabe and ask
13 you about that visit that you took to Michael Lank's house.

14 MR. JACKSON: May I approach, Your Honor?

15 THE COURT: Yes.

16 MR. JACKSON: Thank you, Your Honor.

17 Q Have you and Ms. Roberts discussed that visit to
18 Michael Lank's house before your testimony before you
19 testified to it for the first time in May of 2024, about a
20 year ago? Did you all discuss that at all?

21 A I don't recall.

22 Q You testified under oath in that proceeding that you
23 went, and I want to be very clear about this, that you went
24 from 1 Meadows, the O'Keefe's residence, John O'Keefe's

1 residence, directly to Michael Lank's residence which is
2 another neighborhood in the same town, correct?

3 A Yes. Correct.

4 Q You indicated that you were there to drop off on one
5 Kerry's daughters; is that right?

6 A Yes.

7 Q That's how you testified in May of 2024, about a year
8 ago?

9 A Yes.

10 MR. JACKSON: May I have just a moment, Your Honor?

11 THE COURT: Yes.

12 Q You spoke to Lieutenant Tully about this very same
13 visit on May 10, 2024, before your actual testimony in that
14 other proceeding a year ago, correct?

15 A Yes.

16 Q And what you all talked about was your visit and your
17 travels over to Sergeant Lank's -- by the way, it's
18 Sergeant Michael Lank of Canton PD, correct?

19 A Yes.

20 Q The same Michael Lank that we've talked about?

21 A Yes.

22 Q You talked to over to Lieutenant Tully about that trip
23 over to Michael Lank's house, correct?

24 A Yes.

1 Q You indicated that in that interview with Lieutenant
2 Tully that you went over to the Lank residence with Kerry
3 Roberts to pick up her daughter at the residence, correct?
4 Not to drop her off but to pick her up.

5 A She was with us at Meadows and we dropped her off.

6 Q Right. I know that's what your testimony was a couple
7 of days ago. I'm asking, when you talk to Lieutenant Tully
8 on May 10, 2024, before your testimony last year, did you
9 tell Lieutenant Tully you were actually there to drop --
10 I'm sorry -- to pick up her daughter? That's why we went
11 to Michael Lank's house. That's why you went to Mike
12 Lank's house?

13 A I like to Michael Lank's to drop her daughter off.

14 Q What did you tell Lieutenant Tully?

15 A That I went to drop her daughter off.

16 Q So you didn't say pick her up to him?

17 A I don't believe so, no.

18 Q So if he said that, that would be another example --

19 MR. BRENNAN: Objection.

20 Q -- of an incorrect report?

21 THE COURT: Sustained.

22 Q Do you remember exactly what it was that you told him
23 during that interview?

24 A I know that (C) was with us at Meadows Ave., and we
25 dropped her off at Mike Lank's. So it could have been

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-69

1 slash pick up and drop off, that could have happened. But
2 I had -- we had (C) with us when we dropped her off.

3 Q Okay. So you believe that may have been his mixup, not
4 yours?

5 MR. BRENNAN: Objection.

6 THE COURT: Sustained.

7 Q Is that -- I'm sorry.

8 Do you remember exactly what it was that you told
9 Trooper Tully -- Lieutenant Tully during that interview?

10 A I know I said that we dropped her off.

11 Q It was 11 days later that you actually testified,
12 correct?

13 A Eleven days later from?

14 Q After the interview -- about ten or eleven days after
15 the interview with Lieutenant Tully that you actually
16 testified in court about -- in a proceeding about this
17 issue?

18 A It could have been. I don't know the exact dates of
19 when I testified.

20 Q But you testified, say, May 21st --

21 A Yes.

22 Q Okay. When you testified in that other proceeding, you
23 had testified that you had dropped off Kerry Roberts'
24 daughter, not picked her daughter up; is that right?

25 A I know I dropped her off, yes.

1 Q Did you also talk to Kerry Roberts about her testimony
2 and what she was going to say about dropping off or picking
3 up her daughter?

4 A No.

5 Q You never talked to her about it before you testified
6 before she testified last year?

7 A We both know what happened, so I --

8 Q I'm just asking if you had a discussion. That's all
9 I'm asking.

10 A I have no idea if we discussed that.

11 Q So you might have.

12 A I have no idea.

13 Q And in the last year, let's clock it around all the way
14 to now, you've probably discussed it additionally with her,
15 correct? A Probably not that detail, no.

16 Q Now, you also indicated -- by the way you were -- the
17 reason that this subject matter came up with Lieutenant
18 Tully is you confronted with certain location data records
19 indicating that you are at Michael Lank's house for a
20 period of time, correct?

21 MR. BRENNAN: Objection.

22 THE COURT: Sustained. Ask it differently.

23 Q Were you provided any records and asked about records
24 that showed that you were at Michael Lank's house on
25 January 30th of 2022?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-71

1 A I was asked if I had gone to Michael Lank's house, and
2 to be honest, I completely forgotten because those days
3 were just a complete blur, but then I remembered that after
4 we left Meadows Ave., we did drop (c), her -- I'm sorry --
5 her daughter off at Michael Lank's.

6 Q All right. Do you recall ever seeing a document, seeing
7 something that indicated that you were actually -- a piece
8 of paper, a document, record, anything indicating that you
9 were seen at Michael Lank's house through GPS location
10 data?

11 A Did I see a record of that?

12 Q Correct. Did Lieutenant --

13 A No, he didn't show me a record.

14 Q He just asked you.

15 A He just asked me.

16 Q Did he tell you during that course of that interview
17 that he had been provided with GPS data records indicating
18 that you went to Michael Lank's house?

19 A I don't remember the specifics of what he asked, but I
20 know that he did -- asked me if I had been there.

21 Q Did he tell you that he had received those GPS data
22 records from the defense?

23 MR. BRENNAN: Objection.

24 THE COURT: Sustained.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-72

1 Q Did he tell you anything about receiving any documents
2 from the defense that prompted the question where you were
3 on January 30?

4 A I don't recall.

5 Q Before that interview on May 10, with Lieutenant Tully,
6 this is proceeding your testimony last year, had you ever
7 reported that you went to Michael Lank's house, Sergeant
8 Lank's house on January 30, to anybody?

9 A No. To be honest, I completely forgot about it.

10 Q You indicated that during that visit you sat outside in
11 a car, in Kerry's car, correct?

12 A Yes.

13 Q Basically for the entire visit; is that right?

14 A Yes.

15 Q You indicated that you did not go in the house except
16 to use the restroom, possibly, correct?

17 A I have a faint memory that I ran in to use the
18 bathroom.

19 Q You indicated that you did not see Sergeant Lank at
20 his home, correct?

21 A I don't believe I did, no.

22 Q What time of night was this?

23 A I don't know. We had left -- we had have been at
24 Meadows for a while, and then we left. I dropped (C) off

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-73

1 and then I went home. Yeah, I don't know my time. Maybe
2 afternoon. I'm not sure. I'm sorry.

3 MR. JACKSON: Your Honor, I have a 10 page document
4 that I'd like to have backed as identification with the
5 Court's permission?

6 THE COURT: Sure. Show Mr. Brennan.

7 MR. JACKSON: Mr. Brennan is just going to review that
8 document. I have no problem with that.

9 MR. BRENNAN: Thank you.

10 MR. JACKSON: May I approach?

11 A Thank you.

12 Q Do you recognize the document --

13 THE COURT: It hasn't been marked yet.

14 MR. JACKSON: I'm sorry. I ask that it be marked for
15 identification at this point, just only for identification.

16 THE COURT: Right.

17 MR. JACKSON: Sorry.

18 THE COURT: So Madam Court Reporter will now hand it
19 back to you.

20 (Whereupon Exhibit L, Map/GPS Printout/Location Data, was
21 marked for identification.)

22 THE COURT: Thank you. Go ahead, Mr. Jackson.

23 MR. JACKSON: Thank you, Your Honor.

24 Q Once you get the document back, I'll ask you a few
25 quick questions on that.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-74

1 A Okay.

2 Q You have the document in front of you?

3 A Yes.

4 Q Let's take a look at the first page of that document
5 just to orient yourself. Do you see that that appears to
6 be a map, generally?

7 MR. BRENNAN: I object.

8 THE COURT: All right. So I'm just going to ask you to
9 take a look at the document and don't describe it.

10 MR. JACKSON: Sure.

11 Q Take a look at the first page and tell me if you
12 recognize anything on that page?

13 A I do, yes.

14 Q What do you recognize generally about that document?

15 MR. BRENNAN: I object.

16 THE COURT: I'll see you, Counsel, at sidebar. May I
17 have that please, Ms. McCabe?

18 (Sidebar commences:

19 THE COURT: All right. What do I have, Mr. Jackson, and
20 what are you doing with it?

21 MR. JACKSON: This is location data that's been pulled
22 from her phone that's been produced to the Commonwealth.

23 THE COURT: Is it a Cellebrite?

24 MR. JACKSON: It's not from Cellebrite. It's just
25 location data that was generated from the extraction --

1 THE COURT: By who?

2 MR. JACKSON: -- showing the location of her phone at
3 different times.

4 THE COURT: Who was it extracted by?

5 MR. JACKSON: It was extracted by -- I mean, the
6 extraction was done by the Commonwealth, but we received
7 the extraction and this report was conducted by I think it
8 was Maggie Gaffney. I think it was Ms. Gaffney. I don't
9 expect that she's going to recognize this, but she's going
10 to recognize this. All I want to do is --

11 THE COURT: All right. So on page 1, so you're pointing
12 to all the circles. You don't expect that she'll recognize
13 the circles.

14 MR. JACKSON: Right.

15 THE COURT: What is it that you want her to recognize?

16 MR. JACKSON: Her home address and then a few pages
17 later, 34 Fairview, and a few pages later, Michael Lank's
18 residence just as it pertains to the map, only. I don't
19 think -- I'll ask her, do you recognize what these are, and
20 she's going to say, no, I think.

21 THE COURT: All right. So what's your objection, Mr.
22 Brennan?

23 MR. BRENNAN: Well, it's hearsay, and he's asking her
24 to testify about some information in a chalk or a computer
25 printout that they've developed, and so she knows where she

1 lives. She knows where Mr. Lank's home is. She shouldn't
2 be discussing hearsay in a document when that document
3 hasn't been admitted. So it's just rank hearsay.

4 THE COURT: Do you have another map -- is somebody
5 going to come in and tie up all these circles?

6 MR. JACKSON: Yes, Maggie Gaffney.

7 THE COURT: So let's keep it as identification until
8 that happens.

9 MR. JACKSON: That was my intent.

10 THE COURT: So nothing displayed on the screen.

11 MR. JACKSON: Correct.

12 THE COURT: And you're just going to ask her where she
13 lives. I don't really want her announcing her address.

14 MR. JACKSON: I will not ask her that. I'm fully
15 prepared to say don't give me the address, does this map
16 display, generally, where you live. It's no different --
17 its' not hearsay.

18 THE COURT: Yeah, okay. So I'm going to allow it.

19 MR. BRENNAN: Would you allow it *de bene*?

20 THE COURT: I mean, it's just for -- oh, the questions?
21 Yes. You'll have to remind me. I mean, if you think it's
22 something that should be stricken because they don't --
23 it's not going into evidence, so the questions are merely
24 what, does this depict --

1 MR. JACKSON: Do you see what generally depicts your
2 residence and the location of your residence, and do you
3 see on the document the time. That's the only two
4 questions I'm going to ask.

5 THE COURT: And you're going to ask her what they are?

6 MR. JACKSON: What the times are?

7 THE COURT: Yes.

8 MR. JACKSON: No. All of that will come in through
9 Maggie Gaffney.

10 MR. BRENNAN: If they're calling Ms. Gaffney, then I
11 wouldn't have an objection to identifying where she lives
12 and the time if that's what -- they're going to follow-up,
13 I don't want to be a stickler on timing.

14 THE COURT: And if they don't, they'll move to strike
15 that line of questioning. You'll have to remember. If you
16 record the time and the date of when that testimony is.
17 It's going to be a long trial. I'll hand this back to her.
18 This is for identification.
19 end of sidebar.)

20 THE COURT: All right, Ms. McCabe, I'm going to give
21 you this, and you'll be asked a few more questions.

22 THE WITNESS: Thank you.

23 MR. JACKSON: May I continue, Your Honor?

24 THE COURT: Yes.

25 Q Can you look at that first page?

1 A (Witness complies.)

2 Q Do you recognize a location that's been pinpointed on
3 that page?

4 A I do.

5 Q Okay. Without telling me the address, what do you
6 recognize that as being?

7 A My house.

8 Q Okay. And do you see in the callout box in the middle
9 the page?

10 A Yes.

11 Q Do you see a date and time?

12 A Yes.

13 Q What is the date and time?

14 A It is January 30, at 12:13.

15 Q Take a look at page 2 on what's been marked for
16 identification.

17 A (Witness complies.)

18 Q Do you see a location pinpointed on that page?

19 A I do, yes.

20 Q What do you recognize that location to be?

21 A John O'Keefe's home.

22 Q Is that what we talked about on Meadows?

23 A Yes, Meadows.

24 Q Do you see a time and date for that location?

25 A Yes, 1/30/2022 at 12:19.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-79

1 Q At 12:19 p.m.?

2 A Yes.

3 Q Okay. Thank you. If you could turn to page 4. Skip
4 over page 3 and just go straight to page 4.

5 A (Witness complies.)

6 Q Do you recognize something's been pinpointed on that
7 map as well?

8 A Yes.

9 Q What is that? Again, don't give me the full address,
10 what is that full location that's been pinpointed?

11 A That is my house.

12 Q Okay. And do you see a date and time for that location?

13 A Yes, that's 1/30 at 5:21.

14 Q When you say 1/30, January 30 --

15 A Sorry. January 30, 2022 at 5:21.

16 Q Okay. Looking at page 5, do you see a location --

17 A Yes.

18 Q -- pinpointed on that map as well?

19 A Yes, I do.

20 Q And what's the date and time of that location?

21 A That is also 1/30/2022 and that is at 5:28.

22 Q Got it. Take a look at page 6. Do you see a location
23 pinpointed on that map?

24 A Yes.

25 Q Again, what is that location?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-80

1 A That is 1/30/2022.

2 Q The location?

3 A Oh, I'm sorry. That is Fairview.

4 Q Appear to be 34 Fairview?

5 A Yes.

6 Q And what's the date and time?

7 A 5:36.

8 Q Take a look at page 7. Do you see anything located on
9 that pinpoint location on that page?

10 A Yes.

11 Q What's the date -- I'm sorry. What is that location?

12 A That's Fairview again.

13 Q And what's the date and time?

14 A That is 1/30/22 at 5:40.

15 Q So just to be clear, the page before was 5:36 and this
16 page is 5:40?

17 A Yes.

18 Q Take a look at page 8. Do you see what's pinpointed on
19 that page?

20 A Yes.

21 Q What is that location, without giving me the address?

22 A I believe that is Mike Lank's home.

23 Q What's the date and time?

24 A 1/30/2022.

25 Q January 30, 2022 and the time, please?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-81

1 A 5:43.

2 Q Is -- you're familiar with Canton, obviously?

3 A Yes.

4 Q Much more than we are. Is driving time from 34
5 Fairview to Michael Lank's house consistent with about
6 three to four minutes?

7 A It could be, but they have multiple stop signs.

8 Q Okay.

9 A And due to the weather.

10 Q Right. Take a look at page 9.

11 A Yes.

12 Q Do you see another pinpointed address?

13 A Yes, I believe it's the same one.

14 Q The same address on Oakdale?

15 A As Mike Lank.

16 Q Okay. And what's the time -- what's the date of that?

17 A 1/30/2022 and that is 6:28.

18 Q And 6:28 is about 45 after minutes after 5:43, give-or-
19 take, correct?

20 A Yes.

21 Q Finally, the last page, page 10, do you see yet another
22 pinpointed address?

23 A I do, yes.

24 Q Is that your address?

25 A Yes, it is.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-82

1 Q And what's the date and time of that pinpoint?

2 A That is 1/30/22 as well, and that is at 6:34.

3 Q And is -- would it be safe to say that your address
4 from Mike Lank's address maybe six or seven minute drive?

5 A Yeah, depending.

6 Q We were talking about what happened when you were that
7 Mike Lank's that evening.

8 By the way, does any of that refresh your recollection
9 about the time that you went to Mike Lank's house?

10 A Yes, I knew it was after Meadows in the middle the day,
11 yes.

12 Q So closer to 5:45, 6:30, correct?

13 A Yes.

14 Q And this is in January in Boston; is that right? The
15 Greater Boston area?

16 A Yes.

17 Q It gets dark really early?

18 A Yes.

19 Q It was a blizzard?

20 A The night before, yes.

21 Q Safe to say that it was dark out?

22 A Yes.

23 Q Safe to it was cold out?

24 A Yes.

25 Q The blizzard was still brewing, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-83

1 A I think it had stopped snowing by then.

2 Q Still freezing cold?

3 A I believe so.

4 Q And your testimony is you sat outside in a car with
5 Kerry Roberts and Michael Lank's wife for 45 minutes?

6 A Yes.

7 Q You actually -- and I'm assuming the car was running?

8 A Yes.

9 Q Heat had to be on full blast?

10 A Yes.

11 Q You were dressed in winter gear?

12 A Yes.

13 Q Because it's freezing out, correct?

14 A Correct.

15 Q You actually got out the car and went into the house to
16 go to the restroom at one point?

17 A I have a faint memory I think I did, yes.

18 Q And the three of you didn't just decide, let's go in
19 the house?

20 A No, we didn't.

21 Q You actually came out of the restroom, came out of the
22 nice warm house and fought the cold and got back in the
23 car, according to you, correct?

24 A Yes, I went back in the car because Kerry was going to
25 bring me home.

1 Q You stated on direct examination that -- and you stated
2 again today, you stopped by Michael Lank's house, Sergeant
3 Lank's house, directly from the O'Keefe residence as sort
4 of a -- my word, not yours, sort of a pit stop to drop off
5 Kerry Roberts' daughter, correct?

6 A Correct.

7 Q In point of fact, you actually drove from your personal
8 residence to Michael Lank's house as a destination, didn't
9 you?

10 A I don't remember that. This is what this piece of
11 paper says. I remember just leaving Meadows and dropping
12 off (c).

13 Q In point of fact, it wasn't an errand, it wasn't to
14 drop anybody off. It was a destination that you went to
15 from your house to Sergeant Lank's house on January 30,
16 2022, wasn't it?

17 A No, we went to drop off (c).

18 Q Was (c) at your house?

19 A She was with us. She was at Meadows and then we went
20 to drop her off.

21 Q Right. She was never with you at your house, was she?

22 A I don't remember going to my house.

23 Q So if she wasn't with you at your house, there would be
24 no reason to drop a child off from your house to Michael
25 Lank's house, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-85

1 A (C) was in the car with us when we dropped her off at
2 Michael Lank's house. That's why we went to Officer Lank's
3 house, yes.

4 Q And in point of fact, you actually went from your house
5 and did make a pit stop to 34 Fairview before you went to
6 Michael Lank's house, didn't you?

7 A We drove by and stopped, yes. Slowly stopped, yes.

8 Q And you went in the house and spoke with someone?

9 A No, I never went in the house.

10 Q Why did you come -- go behind and just stop?

11 A I think Kerry and I just went by to, like, take a look
12 at it. We were still trying to figure everything out.

13 Q You stayed there for four to six minutes?

14 A I'd have to look at their report, but, yeah, we were
15 sitting in the car and just like, oh, my God looking.

16 Q Didn't go in the house?

17 A We didn't go in the house.

18 Q Nobody came outside to talk to you?

19 A No.

20 Q You didn't speak to Nicole?

21 A I don't believe so.

22 Q Possible?

23 A Like I said, Kerry and I just kind of drove by looking
24 at the area.

1 Q And that's before you went to Michael Lank's house,
2 correct?

3 A That was on the way to Michael Lank's.

4 Q So in point of fact, you didn't go directly from 1
5 Meadows to Michael Lank's house?

6 A I thought I had. I truly thought I had.

7 Q But now your memory is refreshed?

8 A My memory is not -- this isn't refreshing my memory. I
9 do not remember going by my house before Michael Lank's.

10 Q Do you remember testifying a year ago that -- well, let
11 me ask it this way.

12 Do you remember denying a year ago that you ever even
13 stopped by 34 Fairview?

14 A I don't remember that, no.

15 Q Would it refresh your recollection to take a look at
16 your prior testimony?

17 A Sure.

18 Q Take a look at that page that top highlighted portion.

19 A (Witness complies.)

20 MR. JACKSON: May I?

21 THE COURT: Yes.

22 MR. JACKSON: Thank you.

23 Q On May 21st of last year, you were asked about this
24 very thing a prior proceeding, correct?

25 A Correct.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-87

1 Q And at that time you denied it altogether ever going by
2 34 Fairview, correct?

3 A No, I believe the paper says, I never stopped by, but
4 we drove by.

5 Q And now you're saying that you did stop?

6 A Stopping by and driving by, that's something different
7 to me. Stopping by, I look as then you go in the house.
8 Driving by is you just drive-by. So we just drove by
9 slowly and kind of looked at the scene.

10 Q And, Ms. McCabe, I think you just said that you maybe
11 even spoken with Nicole?

12 A We didn't speak with Nicole, no. We were in the car,
13 Kerry and I.

14 Q You are denying that you ever spoke with call or any
15 other member of the Albert family or anybody at 34 Fairview
16 as you sit here today?

17 A As I sit here today, I'm telling you that we slowly
18 drove by.

19 Q So again, last question on this point, you did not --
20 you now admit you drive from 1 Meadows over to 34 -- I'm
21 sorry -- over Michael Lank's house directly to drop off
22 Kerry's daughter?

23 A My memory is we did drive by 1 Meadows. I know what
24 this piece of paper says. I'm telling you that just -- my
25 memory is we left Meadows and went down Fairview and then

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-88

1 went to Michael Lank's, but this paper is saying I stopped
2 at my house first. I don't remember that.

3 Q And all your --

4 A I was in shock.

5 Q Sorry.

6 A So a lot of things from that day are foggy. Certain
7 things, certain details I may have forgotten.

8 Q And all of your testimony over the last several days is
9 based on that memory that you just described to these
10 jurors, correct?

11 A There's certain things I'll never forget, correct.

12 Q I'm going to ask you a couple questions you may,
13 depending upon your answer, you may -- depending on what
14 you just answered, you may or may not remember, but let's
15 see.

16 Isn't it true that at 12:13 p.m., you left (f) [REDACTED]
17 [REDACTED] on January 30th of 2022?

18 A Yes. According to this, yes.

19 Q Isn't it true at 12:19 you arrived at 1 Meadows, the
20 O'Keefe residence?

21 A According to this, yes.

22 THE COURT: Are you asking her regarding --

23 MR. JACKSON: I'm asking her memory, not according to
24 the document.

25 A Oh, my memory. I don't remember exact times.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-89

1 Q Thank you. Isn't it true, Mrs. McCabe, that at 5:12
2 p.m., you left 1 Meadows this is the O'Keefe residence,
3 5:12 in the evening?

4 A I don't remember the times that I left.

5 Q Isn't it true that at 5:21, you arrived back at your
6 address at (f) [REDACTED]?

7 A I do not remember that.

8 Q Isn't it true that at 5:28, seven minutes later, you
9 actually left your address at (f) [REDACTED]?

10 A Again, I don't remember going by my house.

11 Q Isn't it true that at 5:36, you arrived at 34 Fairview
12 and stayed for at least four minutes?

13 A I know we drove by.

14 Q Isn't it true that at 5:40 or just thereafter, you left
15 34 Fairview?

16 A I know we left and went to Mike Lank's.

17 Q And isn't it true at 5:43 you arrived on that Oakdale
18 Road address at Sergeant Lank's house?

19 A I'm not sure of the exact time, but, yes, we did go to
20 Sergeant Lank's house.

21 Q And isn't it true that at 6:28, almost 45 minutes
22 later, actually a little bit better than 45 minutes later,
23 you left that address at Michael Lank's house and drove
24 back to your house directly?

25 A After leaving Mike Lank's I went home, correct.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-90

1 Q And you arrived at your house at 6:34, correct?

2 A According to the paper.

3 Q What about according to your memory?

4 A I don't remember exact times.

5 THE COURT: Mr. Jackson, is this a good place to take
6 the morning break?

7 MR. JACKSON: It is. I'm about to shift gears.

8 THE COURT: All right. Jurors, we will take our morning
9 recess, 15, 20 minutes. We'll see you back here. Ms.
10 McCabe, again if you just want to follow the court officer
11 out.

12 (Court in recess at 11:00 a.m.)

13

14

15

16 (Court in session at 11:47 a.m.)

17 (Defendant is present with counsel.)

18 (Jury in.)

19 THE COURT: So, jurors, that break was longer than I
20 told you it would be. We were waiting for some records to
21 be printed. So it did take a while. We appreciate your
22 patience.

23 All right. Mr. Jackson, go right ahead.

24 MR. JACKSON: Thank you, Your Honor.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-91

1 Q Ms. McCabe, I want to shift gears to some phone calls
2 that you had with Trooper Michael Proctor back in January
3 of 2022, moving to February and March?

4 MR. JACKSON: Your Honor, may I approach?

5 THE COURT: Yes.

6 Q Can you tell me, Ms. McCabe, if you recognize those
7 documents that I just handed you?

8 A Yes. This first one looks like a Verizon record of my
9 phone. Q Okay. And what about the second document?

10 A A phone bill, and, yes, more records from my phone.

11 Q Okay. I'm going to ask you a couple of questions.

12 MR. JACKSON: Before I do, I'd like to have both of
13 those documents respectively marked just for identification
14 that I don't anticipate entering.

15 THE COURT: Okay.

16 (Whereupon Exhibit M, Verizon Records, was marked for
17 identification.)

18 (Whereupon Exhibit N, Verizon Records, was marked for
19 identification.)

20 MR. JACKSON: May I continue? Thank you.

21 Q Ms. McCabe, you had a number of phone calls with
22 Michael Proctor on January 29 moving into January 30 and
23 onto the 31st, correct?

24 THE COURT: Are you asking her to read the records
25 or --

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-92

1 MR. JACKSON: Not yet. I will in just a second.

2 THE COURT: All right. So turn the records over and see
3 if you can answer the questions.

4 Q You had a number of calls with Michael Proctor in the
5 days and hours following the incident, correct?

6 A Yes, I know I had some phone calls.

7 Q I'm assuming you don't remember exactly the time and
8 duration of those phone calls as you sit here?

9 A Correct.

10 Q Would it refresh your recollection to look at your
11 phone records that you supplied for this time period?

12 A Sure.

13 Q There's two different documents, Ms. McCabe. One of
14 them deals -- starts with January 29. Can you grab that
15 document, please?

16 A (Witness complies.) Okay.

17 Q You should see some highlights on that document.

18 A Did you make a -- did you receive a phone call from
19 Michael Proctor at about 10:54 a.m. on January 29, a couple
20 of minutes in length?

21 MR. BRENNAN: I object to the form.

22 THE COURT: Okay. So you asked her if this would
23 refresh her recollection. You need to ask her if this
24 refreshes her recollections.

25 MR. JACKSON: Sure.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-93

1 Q Do you remember, as you sit here, a phone call at 10:54
2 a.m.?

3 A I remember getting a call. I don't remember the exact
4 time.

5 Q Would it refresh your recollection to look at the
6 document that you're holding as to the time of that phone
7 call, the time and date?

8 A I see what the document says. But I just in my head,
9 if you asked me what time did he call you, I don't
10 remember.

11 Q Do you have any quarrel with the accuracy of that
12 document?

13 A No, it looks pretty accurate.

14 Q Okay.

15 A It looks right. It looks possible, yeah.

16 Q All right. As you sit here, do you recall does that
17 refresh your recollection that you received a phone call
18 from Michael Proctor about 10:54 in the morning?

19 THE COURT: Does that refresh your memory now, Ms.
20 McCabe.

21 THE WITNESS: I know I did receive a phone call from
22 him, yes.

23 THE COURT: At that time?

24 THE WITNESS: I don't know the exact time.

25 THE COURT: All right. So the answer is no.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-94

1 Q Was it midmorning?

2 A Yes.

3 Q Did you receive another phone call on the 29th
4 around --

5 THE COURT: Without looking. So this is again being
6 asked --

7 Q Right. I'm going to go through this each one of these
8 calls, there's not that many, but a few.

9 On the 29th, did you receive a phone call at around
10 12:49?

11 A I know I received a phone call. Again, don't remember
12 the time.

13 Q Would it refresh your recollection to look at the
14 document, the next line down the next phone call from that
15 number?

16 A Yes, I see that there's a call in this record.

17 Q Is your recollection refreshed that you did receive
18 that phone call on the 29th from Michael Proctor?

19 THE COURT: Is your recollection refreshed? Do you now
20 remember independently that time?

21 THE WITNESS: Not the time. I don't remember the
22 specific times, no, but I do remember that he did call me,
23 yes.

24 Q Okay. So there's two calls.

25 MR. BRENNAN: I can make it easy.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-95

1 THE COURT: Excuse me?

2 MR. BRENNAN: I only object in form. I don't object to
3 the record.

4 THE COURT: All right.

5 MR. JACKSON: I'm sorry.

6 THE COURT: So I guess the record is fine, but if
7 you're asking whether she remembers, you're not going to
8 get anywhere, Mr. Jackson. So I'm being told that there's
9 no objection --

10 MR. JACKSON: Fine.

11 THE COURT: -- to the record, just the question where
12 you're incorporate several things from the record.

13 MR. JACKSON: Fine.

14 THE COURT: Was that the nature of the objection, Mr.
15 Brennan?

16 MR. BRENNAN: Yes, I have no objection to the data
17 coming in.

18 MR. JACKSON: Thank you.

19 Q I'm just going to speed things along, and I appreciate
20 Mr. Brennan's assistance with that.

21 January 29, you see the record indicates a phone call
22 from Michael Proctor at 10:54 a.m.?

23 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-96

1 Q You also see on that same record a phone call from
2 January 29, 2022 coming in from Michael Proctor at 12:49
3 p.m., correct?

4 A Yes.

5 Q Moving on down to January 30, you see a record -- a
6 call at 9:51 a.m. from you to Michael Proctor, correct?

7 A Yes.

8 Q January 30, a minute later, you see a phone call from
9 you to Michael Proctor lasting about 22 minutes, correct?

10 A Yes.

11 Q January 30 at approximately 4:45 p.m., you see a call
12 from Michael Proctor to you. The call lasts about ten
13 minutes?

14 A Correct.

15 Q Going to onto the next date, January 31. You see a
16 phone call from you to Michael Proctor at 11:51 a.m. just
17 before noon, lasting about four minutes, correct?

18 A Yes.

19 Q Take a look at the second document if you will. That
20 covers that document, that timeframe.

21 The second document you should see some highlights, and
22 I'm going to ask you to start where there's a tab on
23 February 14, 2022?

24 A Am I looking at the second one or the --

25 MR. JACKSON: May I approach?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-97

1 THE COURT: Yes.

2 Q If I may.

3 A Yes.

4 Q Can I see the other document?

5 A This one has the February 14th.

6 Q There you go. Thank you, Ms. McCabe. Taking a look at
7 that document.

8 And by the way, for the record, which one is that M or
9 N?

10 A This is M.

11 Q M as in Mary?

12 A Mary, yes.

13 Q Thank you. Do you see a record of a phone call on
14 February 14 at about 3:55 p.m. lasting about 17 minutes
15 between you and Michael Proctor?

16 A Yes.

17 Q February 17, at about 5:19 p.m., is there a record of a
18 call between you and Michael Proctor at that time?

19 A Yes.

20 Q February 28, about 12:48 ma'am, is there a record of a
21 call between you and Michael Proctor?

22 A Yes.

23 Q On the same date, February 28, do you see a call at
24 4:34 p.m. with you and Michael Proctor?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-98

1 Q March 1, at 10:16 a.m., do you see a call between -- a
2 record of a call between you and Michael Proctor lasting
3 ten minutes?

4 A Yes.

5 Q March 1, you should see two calls, one at 4:51 p.m. and
6 one at 5:00 or 6:00 p.m. Do you see those two calls
7 between you and Michael Proctor?

8 A Yes. One was one minute and the other was two? Those?

9 Q Thank you. And staying on that same date. At 5:50 p.m.
10 do you see a call on March 1 between you had Michael
11 Proctor lasting about 12 minutes?

12 A Yes.

13 Q And then finally on March 29, 2022, do you see a call
14 at about 3:27 p.m. lasting about four minutes?

15 A I'm sorry. What was the date?

16 Q March 29?

17 A Oh, yes.

18 Q And that's about a four minute call at 3:27 in the
19 afternoon?

20 A Yes.

21 Q And you had in fact -- and that's all I have on those
22 records. Thank you for that, Mrs. McCabe. You had in fact
23 met Michael Proctor in person on January 29, correct?

24 A Yes.

1 Q He was actually in your home and personally interviewed
2 you, correct?

3 A Yes.

4 Q Not only did you have him in your home, it was for the
5 purpose of a formal interview between the two of you in
6 person; is that right?

7 A Yes.

8 Q That was time that Brian Albert was there?

9 A Yes.

10 Q In your home as well?

11 A Yes.

12 Q And you had at least -- I think you went through about
13 14 phone calls with Michael Proctor just the next days and
14 weeks going all the way up through February and March. We
15 had just got over those, correct?

16 A Yes, there are calls, but you're right about the number
17 calls, but some of them I don't even know they were
18 answered.

19 Q And of course that doesn't -- and that may be true. But
20 you were communicating back, certainly?

21 A Yes.

22 Q And in the weeks and months following?

23 A Yes.

24 Q And that doesn't include -- those records, just for
25 brevity's sake, those records stop in March, but there are

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-100

1 more communications in April, May, June, July, August,
2 correct?

3 A I'm not sure about that. I don't know. I think
4 initially we communicated, but I'm not sure how long it
5 went.

6 Q So --

7 Q And then I know we started communicating again in the
8 summer of '23 I believe or April of '23.

9 Q So you had spoken with Michael Proctor on the phone
10 many times. We've just gone over those records, correct?

11 A Yes.

12 Q You met him in person on the 29th?

13 A Yes, that's when he came to interview me at my house,
14 correct.

15 Q That was for a formal interview with you, correct?

16 A Yes.

17 Q And it was in your house that you met him for that
18 formal interview?

19 A Yes.

20 Q And that was probably for some time. It wasn't a two-
21 minute conversation?

22 A No.

23 Q Then in September or October of 2023, you were
24 interviewed by Lieutenant Tully, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-101

1 A I have been interviewed by Lieutenant Tully. I don't
2 recall the date.

3 Q And you indicated just now that you began picking up
4 conversations with Michael Proctor again in the summer of
5 2023, correct?

6 A Yes.

7 Q So there were many more communication at that time just
8 before the September/October time frame of 2023?

9 A Yes, but that was in regards to something different
10 than this case.

11 Q Not the subject matter. You've met him and talked to
12 him more times in the summer of '23, correct?

13 A I never met with him; I just spoke with him.

14 Q In that interview Trooper Tully, you were specifically
15 asked your relationship with Michael Proctor when Trooper
16 Tully sat down with you in that I think it was a September
17 or maybe it was an October interview, correct?

18 A I don't remember the specifics of the interview.

19 Q He asked you specifically whether or not you had met
20 with Michael Proctor, whether or not you had any sort of
21 relationship with Michael Proctor; is that right?

22 A I'm not sure the specifics of the interview.

23 Q Isn't it true that you told Lieutenant Tully that you
24 had, "Never met Trooper Proctor prior to September of
25 2023?"

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-102

1 A No, because Michael Proctor was in my house in January
2 of 2022.

3 Q Exactly. The interview with Trooper Tully in that fall
4 of 2023, where did that take place?

5 A I don't know.

6 Q Do you recall telling Trooper Tully that you had never
7 met Elizabeth Proctor or Michael Proctor prior to September
8 of 2023?

9 A No.

10 Q Would it refresh your recollection if you saw a copy of
11 Lieutenant Tully's report?

12 A I don't need to see the report because I know I told
13 him that I met him on January 29, when he came to my house.

14 Q So again, if Trooper Tully wrote that you had never met
15 Trooper Proctor before September of 2023, that would be an
16 error by him, correct?

17 MR. BRENNAN: I'd object. I'd ask for an instruction.

18 THE COURT: So, again, that is sustained.

19 Ladies and gentlemen, I instructed you on the previous
20 questions regarding the same type of thing, whether or not
21 the witness is lying or not. Disregard the question and
22 move on, Mr. Jackson.

23 Q If you had told Trooper Proctor -- I'm sorry -- Trooper
24 Tully, Lieutenant Tully, that you had never met Trooper

1 Proctor before September of 2023, would that have been a
2 truthful or an untruthful statement?

3 MR. BRENNAN: I object. I'd like to be seen.

4 THE COURT: Okay. Come to sidebar, please.

5 (Sidebar commences:

6 MR. BRENNAN: The repeated misuse of documents that are
7 not statements of --

8 THE COURT: Hold on. Wait for --

9 (Sirens in background.)

10 MR. BRENNAN: The repeated use of characterizing
11 statements that are not Ms. McCabe's statements, and then
12 positing a credibility issue, suggesting that either police
13 officer or the witness is lying is deliberately improper.
14 It's inflammatory to the jury. A curative instruction is
15 insufficient. It is continuous. I've tried to be patient.
16 I've tried to be less restrictive, but this is going on
17 with every witness over and over again. This is not for
18 impeachment. It's improper. Commenting on the potential
19 credibility of witnesses. And it is improper to try to
20 contrast a statement written by a separate witness and
21 confront the witness on the stand and ask whether or not
22 there's a credibility posturing between the two different
23 people.

24 MR. JACKSON: There's nothing improper about
25 confronting a witness with a statement that she claims she

1 never made. That's exactly what I'm doing. It's classic
2 cross-examination. This is cross-examination. And, Your
3 Honor, I've got to say, I am not comfortable with the
4 Court's instructions when I'm standing up, when I'm the one
5 who's standing up. This Court has now instructed the
6 jurors twice on my credibility, and I don't appreciate it.

7 THE COURT: It's improper and you're doing it
8 repeatedly. Don't do it again, Mr. Jackson. Save it for
9 argument.

10 MR. JACKSON: Your Honor, I understand the difference
11 between argument and cross-examination, but it doesn't
12 appear that the Court is giving me any leeway to
13 aggressively and vigorously cross-examine these witnesses.
14 And we keep coming up to sidebar because Mr. Brennan has an
15 issue with the way I ask questions. They're completely
16 proper. She can say, "I never said that." If it's in that
17 report, that is not true. That's exactly what cross-
18 examination is about. She's saying I'm the one that's
19 being credible. They're not being credible. And the
20 reason I'm doing it repeatedly is because it's in every
21 single police report. This witness has basically said at
22 this point every time she's interviewed, when she doesn't
23 like the fact that she's being impeached, the officer got
24 it wrong. These jurors are entitled to hear that. That's
25 her --

1 THE COURT: So they'll hear it when they bring the
2 officer in to show it, otherwise it's not admissible, and
3 I'm telling you to stop doing it. Let's go back.
4 end of sidebar.)

5 THE COURT: Next question.

6 MR. JACKSON: May I?

7 Q Did Trooper Tully -- I'm sorry. Did you tell Trooper
8 Tully, quote, You had never met Elizabeth Proctor or
9 Michael Proctor prior to September 2023, end quote?

10 A I had never met Elizabeth Proctor prior.

11 Q That's not my question, Ms. McCabe.

12 A Okay.

13 Q My question is did you tell Trooper Tully, Lieutenant
14 Tully, that quote?

15 A If I can break that quote up because it's two different
16 parts?

17 Q No, you can't.

18 THE COURT: So this has been asked and answered. Move
19 on, Mr. Jackson.

20 Q Do you deny, as you sit here, telling Lieutenant Tully
21 that quote that I just read?

22 MR. BRENNAN: Objection.

23 THE COURT: Sustained. Move along. The question's been
24 answered.

1 Q Let's talk for a second about your phone calls to John
2 O'Keefe on January 29, 2022. I'd like to go through those
3 calls with you briefly, if I could.

4 MR. JACKSON: Your Honor, this has previously been
5 marked Exhibit 26. Mr. Brennan has a copy.

6 If I may approach?

7 THE COURT: Yes.

8 MR. JACKSON: I can take that back. Thank you.

9 Q You indicated on direct examination, and earlier on
10 cross-examination, that you had multiple phone calls to Mr.
11 O'Keefe in the early morning hours of January 29, 2022,
12 correct?

13 A Correct.

14 Q Those phone calls ranged from about 12:14 a.m. until
15 about 12:50 a.m., correct?

16 A There was a call at 12:14 and then at 12:18.

17 Q I'm sorry. I'm --

18 A No, I apologize.

19 Q That's okay. The calls were between 12:14 all the way
20 about 12:50, correct?

21 A Did you say 15?

22 Q Fifty, five zero.

23 A Oh, I'm sorry. I apologize. Yes.

24 Q You called John O'Keefe at 12:14 and 31 seconds lasting
25 about 49 seconds, and that call was answered, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-107

1 A Yes.

2 Q And you see that reflected in Exhibit 26; is that
3 right?

4 A Yes.

5 Q Going in reverse chronological order on this exhibit.

6 You also see a call at 12:18 and 47 seconds wherein you
7 call -- I'm sorry. John O'Keefe calls your phone lasting
8 about 36 seconds; is that right?

9 A Yes.

10 Q You know that that call was answered, even though it
11 says, "unknown," in the document, correct?

12 A It does say unknown, yes.

13 Q One, two, three, four, fifth column over? That's where
14 it says unknown?

15 A Yes.

16 Q But it also indicates that that call lasted 36 seconds,
17 so you know it was answered?

18 A I don't know from this record if it was answered, but I
19 know from my memory that I spoke to him a second time, yes.

20 Q You also made a call -- moving up to the page before
21 this, starting at the bottom of the page, at 12:29 and
22 forty-four seconds, there was a call from you to John
23 O'Keefe's phone lasting seven seconds, correct?

24 A That's what it says.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-108

1 Q And the record indicates that it was an answered phone
2 call, correct?

3 A According to the record, it was answered, but I never
4 spoke to him.

5 Q You deny speaking to John O'Keefe at 12:29 and 44
6 seconds?

7 A Yes, I never spoke to him after 12:18.

8 Q Okay. Moving up. 12:41 and 10 seconds, there was a
9 call from you to John O'Keefe's phone indicating that that
10 was missed. Do you see where it says missed?

11 A I do.

12 Q 12:41 and 59 seconds, there was another call from your
13 phone to John's phone, and that was also indicated as
14 missed, correct?

15 A Correct.

16 Q 12:43, 19 seconds. You call John O'Keefe. That was a
17 missed call?

18 A Correct.

19 Q 12:46 and 16 seconds, you call John O'Keefe's phone,
20 and that was a missed call?

21 A Correct.

22 Q 12:47 and 52 seconds, you called John O'Keefe's phone
23 and that was a missed call?

24 A I'm sorry. Which one was that?

25 Q 12:47 and 52 seconds.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-109

1 A Yes.

2 Q At 12:15 and 37 seconds, you call John O'Keefe's phone
3 that was a missed call as well?

4 A Yes.

5 Q Ms. McCabe, these are seven calls that you indicate you
6 made to John O'Keefe's phone, and that were missed; is that
7 right?

8 A According to this record, yes. There were calls that
9 were missed.

10 Q And that comports with your memory, correct? You
11 indicated that you had called him multiple times that
12 morning and there were missed calls, right?

13 A I called him, but I also think that some of the calls I
14 might have done inadvertently.

15 Q Well, we're going to get to that in a second. My
16 question is that comports with your memory that there were
17 several calls, according to the records, there were several
18 calls made to John O'Keefe's phone, including two calls
19 that you say you spoke to him - 12:14 and 12:18?

20 A I spoke to him at 12:14 and 12:18, yes.

21 Q But you indicate every single call after that was
22 missed, and you denied making those calls?

23 A I'm not denying it. I just don't remember.

24 Q You previously give an explanation for what those calls
25 were, these seven calls that were missed between about

1 12:29 and about 12:50. That's about 19 minutes, we'll
2 agree, correct?

3 A Yes.

4 Q If you divide nineteen by seven, that's every two and a
5 half minutes or 2.7 minutes your phone is calling John
6 O'Keefe's phone, correct?

7 A Correct.

8 Q You previously explained what you attribute to those
9 phone calls; is that right?

10 A Yes.

11 Q What's your explanation?

12 A I think I was going back and forth to the door. I was
13 texting him. I think I put my phone in my pocket. I think
14 I inadvertently maybe I called him.

15 Q What did you call it at the last hearing?

16 A I believe I called it a butt dial.

17 Q And it's not just one butt dial, correct?

18 A There could be multiple, yes.

19 Q Seven butt dials in the course of nineteen minutes,
20 less than twenty minutes, correct?

21 A That evening, I wasn't paying attention to butt dials
22 or calls. I was going back and forth, listening to music,
23 being with family. So if I inadvertently called his phone,
24 I did.

1 Q Not inadvertently called him once, seven times,
2 correct, according to you?

3 A According to the record.

4 Q And we only know about these calls because you're
5 looking at an extraction of John O'Keefe's phone, correct?

6 A Correct. But I also turned over my phone so you
7 could've gotten all of that off of my phone as well.

8 Q And you're well aware that an extraction was done on
9 your phone and not one of those butt dial appears on your
10 phone extraction, correct?

11 MR. BRENNAN: Objection.

12 THE COURT: Are you aware of that?

13 THE WITNESS: I am not aware of that.

14 THE COURT: Next question.

15 Q Once you're confronted with that at the last hearing, a
16 year ago, whether or not those phone calls actually exist
17 on your phone logs?

18 MR. BRENNAN: Objection.

19 THE COURT: Do you remember that?

20 A I remember you asking previously, yes.

21 Q When you dial somebody by mistake, it requires several
22 steps, doesn't it?

23 A I'm not sure. A lot of times, I just put my phone down
24 and then the next thing you know. I think it's very common
25 to do butt dials.

1 Q So you have an iPhone; is that right? Or had an
2 iPhone?

3 A I do, yes.

4 Q And that iPhone required a biometric or a passcode to
5 get into -- to even open the phone. Mine's not open right
6 now, right?

7 A It's not open, correct.

8 Q And it requires -- your phone required some sort of a
9 biometric interaction with the phone, otherwise known as
10 face ID, or you put in a code, correct?

11 A Yes, or I could have been texting.

12 Q Okay.

13 A And then after I texted, the phone was open and I could
14 have accidentally called John. That happens to me all the
15 time.

16 Q It also requires you to open the phone app, correct?
17 For instance, if you're texting, you're in the text app; is
18 that right?

19 A Actually, I'd have to sit and look at it.

20 Q Well, how often do you make phone calls, Ms. McCabe?
21 This is easy.

22 A Every day.

23 Q Every day.

24 A Yeah.

25 Q Hundreds of times a day, right?

1 A Not hundreds.

2 Q Dozens of times a day?

3 A Yeah.

4 Q You have to open the phone app to make a phone call.

5 You can't call somebody from a texting app, right; is that
6 right?

7 A I'm not sure. I don't know what to tell you.

8 Q There's a list of apps at the bottom of phone. You
9 know what message is to phone, right?

10 A Mm-hmm.

11 Q Is that a yes?

12 A Yes, and may be --

13 Q And you answered my question --

14 A -- I hit the last thing, the last call --

15 MR. BRENNAN: Objection.

16 A -- since I had talked to John --

17 MR. JACKSON: Your Honor, at this point I ask the Court
18 to instruct the witness to answer my question.

19 THE COURT: I believe she is. Go ahead and finish.

20 MR. JACKSON: Your Honor, may we approach?

21 THE COURT: Okay.

22 (Sidebar commences:

23 THE COURT: Is Ms. Read coming?

24 MR. YANNETTI: She's right here.

25 THE COURT: Okay. Go ahead.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-114

1 MR. JACKSON: This is an ongoing issue, and one that I
2 finally have to bring to the Court's attention. That is
3 not an answer to the question, and the Court --

4 THE COURT: You asked her right, and she's telling you
5 that they're not --

6 MR. JACKSON: Your Honor, I know what I asked her.

7 THE COURT: -- letting her answer. She's giving you an
8 explanation.

9 MR. JACKSON: I know what I asked her. I asked her yes
10 or no, and she said yes. And then she says, but and goes
11 onto this long, lengthy explanation, and you've done this
12 several times where you've said, "She's answering your
13 question." She has already answered my question. When I
14 object and ask the Court to stop her, normally what happens
15 is the Court says to the witness, "If you can answer it yes
16 or no, answer it yes or no. Ms. McCabe, you've answered
17 the question. Ask your next question."

18 THE COURT: So --

19 MR. JACKSON: You've consistently said, "Mr. Jackson,
20 she's answering your question," and let her go on a
21 diatribe.

22 THE COURT: So I have stopped her or other witnesses on
23 occasion. The court reporter needs to get an answer. You
24 asked -- you said right. You don't say yes or no, you said

1 right, and she was telling you you're not right. Tighten
2 the questions, Mr. Jackson.

3 MR. JACKSON: Oh, this isn't my fault. You can't put
4 this on me. I know what I'm doing. I know how to ask a
5 question. I know how to ask it loose, and I know how to
6 ask it tight. You can't put this on me, Judge. I asked
7 her, you open an app with your -- it's a different app than
8 the messaging app, right?

9 THE COURT: And you're showing her the phone --

10 MR. JACKSON: And she said yes, but --

11 THE COURT: Excuse me. And you're doing a
12 demonstration with your phone, holding the phone up, going
13 -- pointing at your phone. She answered the question. Ask
14 a tighter question and if she's non-responsive, you can
15 move to strike the answer. It's very rare that a lawyer
16 has to object to his own question and answer. So keep it
17 tighter.

18 MR. JACKSON: This witness is very rare, and the Court
19 knows that. This is not -- again, this is another
20 opportunity for me to take a shot at me. It's very rare
21 for a lawyer to have to object to his own questions? Your
22 Honor, you seem to take shots at me that you don't take at
23 anyone else.

24 THE COURT: Well, if you thought it was a shot, I
25 apologize. Let's just go and ask the witness questions --

1 MR. BRENNAN: Your Honor, I'll put on the record I
2 objected because I believe that Mr. Jackson is cutting the
3 witness off during her answer, and she should have the
4 entitlement to finish and explain, that's why I'm
5 objecting.

6 THE COURT: And that's when I let her go is when she's
7 in the middle of an answer. You can redirect her before
8 she answers, but she's answering your question and we need
9 to have a record, and you've made your objection known.
10 end of sidebar.)

11 Q Ms. McCabe -- I'm sorry.

12 THE COURT: So, Ms. McCabe, answer only the question
13 that's being asked, okay?

14 Q Ms. McCabe, you're aware that when you're in the
15 messaging app, you have to do something else volitionally
16 to open the phone app, correct?

17 A Correct.

18 Q You have to test the phone; is that right?

19 A Yes.

20 Q That would open up a second app, correct?

21 A Correct.

22 Q Then once that phone app is open, then you have to
23 choose a person to call, correct?

24 A Yes, sometimes the last dialed.

1 Q Right. And if that happens to be the last dialed, you
2 can scroll through, pick a person, make one tap and that
3 calls the person, that initiates the call, correct?

4 A That is one way, yes.

5 Q But if you get out of the app -- I'm sorry. If you
6 close your phone, hit the lock button after a text message,
7 none of that can happen without you having to open the
8 phone and engage the phone, additionally, correct?

9 A If you had forgotten to lock it, yes.

10 Q Right. So you indicated that these are all missed
11 calls; is that right?

12 A That's what the records show, yes.

13 Q In addition to a missed call -- you had missed calls
14 before. You've both received missed call and you've made
15 calls that were missed; is that right?

16 A Yes.

17 Q When you make a call that's missed, it generally goes
18 to voicemail, does it not?

19 A It does, yes.

20 Q So then you have to do something additional with that
21 call, push the end button, correct?

22 A Correct.

23 Q Otherwise, voicemails just go on forever. They
24 actually go on for four minutes, right?

25 A I don't know how long voicemails go for.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-118

1 Q So if you had missed calls, seven missed calls, that's
2 at least fourteen interactions -- double it because you got
3 to make the call, then you got to end the call. Fourteen
4 interactions with your phone for a single missed call --
5 I'm sorry for seven missed calls?

6 A Could be, yes.

7 Q And your testimony is you don't remember making a
8 single one of those calls to John O'Keefe between 12:29 and
9 12:50, correct? A I do not remember making those calls, no.

10 Q As you sit here, do you deny making those calls between
11 12:29 and 12:50 to John O'Keefe?

12 A Oh, I'm not denying that, no.

13 Q I would like to ask you a few questions about January
14 29, a little further on in the morning after you got home
15 from 34 Fairview.

16 Approximately what time did you get home?

17 A I'm not sure. Maybe around 11:30, 12:00. I'm not
18 sure.

19 Q 11:30 or 12:00?

20 A It could be 11:00. Are you talking about -- I'm
21 confused. are you talking about?

22 Q Let me rephrase the question.

23 On the night of -- the early morning hours of January
24 29, 2022, when you left Fairview --

25 A Oh, I'm sorry.

1 Q -- what time did you get today?

2 A It was after 2:00, I believe. I'm not positive.

3 Q You went upstairs; is that right?

4 A Yes.

5 Q You began to engage with your phone at that time?

6 A Yes.

7 Q What application did you open on your phone once you
8 got upstairs?

9 A It could have been Hockomock Sports.

10 Q I'm sorry. I'm backing up foundationally. What
11 application was on the phone? Was it Safari?

12 A Oh, okay, yes, I think, yes.

13 Q You use Safari as your browser?

14 A I'm not sure what I used.

15 Q You opened up the search engine as well within that
16 browser, did you not?

17 A I just know I googled Hockomock Sports I believe. I'm
18 not sure what app I opened it or how I did my login.

19 Q So Google is a search engine. You use Google?

20 A Possibly. That's just an expression. I'm not -- if
21 your could show me my record, I'm not sure what app I
22 opened.

23 Q Well, Ms. McCabe, you've seen this record many, many
24 times about that search early in the morning hours,
25 correct? You know that it was a Google search?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-120

1 A It was a Google search.

2 Q Okay. So it was a Google search using the Safari app?

3 A Okay.

4 Q You indicated that you were Google searching Hockomock
5 and something about Ozone?

6 A Yes.

7 Q Ozone Sports or Ozone Basketball?

8 A Yes.

9 Q What time was it that you did that Google search?

10 A It was home, but I don't have an exact time.

11 Q About 2:27 a.m., correct?

12 A I'd have to look at record. I don't recall off the top
13 of my head.

14 Q You certainly recall that timeframe, don't you?

15 A I know I was home and I googled that, but I don't
16 remember the exact time.

17 Q You do recognize 2:27 a.m.?

18 A I do recognize it, but it's not from me remembering it
19 from that night, specifically. It's from me learning
20 afterwards.

21 Q And what you learned afterwards was it was a Google
22 search at 2:27 a.m., right? I mean that's a layup to use a
23 basketball term, right?

24 A There's a record I think of one.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-121

1 Q Right. The record is of a Google search at 2:27 a.m. on
2 your phone; is that right?

3 A I'm not a phone expert, so I don't know. I can't
4 read ...

5 Q You're well aware -- you don't have to be a phone
6 expert to know that there was a Google search on your phone
7 recovered at 2:27 in the morning. You know that, you've
8 been told that, you've seen it, you've been asked about it
9 dozens of times, haven't you?

10 A I have been asked about it dozen of times, yes.

11 Q So let's set the foundation. There was a Google search
12 on your phone at 2:27 a.m., correct?

13 A Which Google search are you referring to?

14 Q It doesn't matter, Ms. McCabe.

15 A Well, I know I did Ozone, and I did Hockomock Sports.

16 Q And I didn't ask you that --

17 A Those are the only two things that I Googled.

18 Q I didn't ask you what you Googled. I haven't gotten
19 there yet. We're going to get there. I've asked you was
20 there a Google search at 2:27 a.m. on your phone?

21 A You want to show me your report.

22 Q Sure. You don't remember -- as you sit here, you don't
23 remember that?

24 A I don't.

1 Q You have no record, you have nothing in your mind about
2 a Google search at 2:27 a.m. That's what you're testify to
3 in front of this jury right now?

4 A Are you asking me if I made a Google search at 2:27 --

5 Q Yes.

6 A I don't know what time I was searching for Hockomock
7 Sports and Ozone. I have no idea what time that was.

8 Q You're well aware that your records have been pulled,
9 correct?

10 A Yes.

11 Q And you've been confronted with this records many
12 times, haven't you? You've been asked --

13 A I've been asked by you, yes.

14 Q And by others, right?

15 A Yes.

16 Q I mean, the police asked you about it. You've been
17 interviewed about it?

18 A I've been asked by you.

19 Q And Mr. Lally?

20 A Yeah, Mr. Lally asked about it, yes.

21 Q And every time you're asked, it's about a Google search
22 at 2:27 a.m. That's all I'm asking.

23 A It is, but it's not one that I remember doing or making
24 or did. It's not one that I did. It's just one that is in
25 a record that was misread.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-123

1 Q Are you denying that you made a Google search at 2:27
2 a.m.?

3 A If you could show me this Google search, I'd appreciate
4 it.

5 MR. JACKSON: May I moment, Your Honor?

6 THE COURT: Yes.

7 MR. JACKSON: Your Honor, we need a quick minute to
8 find the record that I did not think we were going to have
9 to find. Can we take a brief recess, about five minutes?

10 THE COURT: I'll see counsel at sidebar. If Ms. Little
11 wants to keep looking while you come to sidebar.

12 (Sidebar commences:

13 MR. JACKSON: I'd have to pull a Cellebrite report that
14 I did not think I was going to -- I did not think in a
15 million years she was going to literally do this.

16 THE COURT: How much longer do you have with her?

17 MR. JACKSON: Probably -- this is the second to the
18 last subject matter. I mean, I could get before 1:00 if
19 she would just answer a question. It's tedious. If she
20 wants to do it this way, I don't mind.

21 THE COURT: So if it's part of what has been displayed,
22 right, is it something we can put a hand on quickly so we
23 don't have to send the jury back.

24 MS. LITTLE: We have it cued up electronically --

25 THE COURT: Any objection if we put it up?

1 MR. BRENNAN: No.

2 MR. JACKSON: You got it?

3 MS. LITTLE: Yep.

4 THE COURT: We need to at some point say where you got
5 that -- isn't -- and it's in evidence, right?

6 MR. JACKSON: It's in evidence.

7 THE COURT: All right. So we'll mark it later.

8 MR. BRENNAN: Yep.

9 end of sidebar.)

10 THE COURT: Jurors, we're trying not to have you take a
11 recess, so the lawyers are just going to get something done
12 fairly quickly so that we can continue up until the
13 luncheon recess.

14 MR. JACKSON: Your Honor, may I?

15 THE COURT: Yes.

16 MR. JACKSON: Thank you.

17 Q Ms. McCabe, I don't have a paper copy, but I'm going to
18 ask you to take a look at something that will be displayed
19 on the screen and ask you a couple questions about that.

20 Can you zoom in?

21 MR. BRENNAN: I object to the way it's presented here.

22 THE COURT: Okay. Take it down. That's not how it
23 appears. We need to get rid of a column.

24 MR. JACKSON: That's exactly how it appears, Your
25 Honor.

1 THE COURT: I'll see counsel at sidebar.

2 (Sidebar commences:

3 THE COURT: Does what's in evidence have --

4 MR. BRENNAN: No.

5 THE COURT: -- the deleted with bright red and the
6 bright green column?

7 MR. BRENNAN: I don't recall that. I would have to
8 look at the record. I would be hopeful the witness would
9 answer this question, but she's not a Cellebrite expert.
10 She's not interpreting the records. That's not --

11 THE COURT: So just lead her with the "hos long to die
12 in cold".

13 MR. JACKSON: Your Honor, let me do my examination.

14 THE COURT: Okay.

15 MR. JACKSON: I have been leading her. She won't
16 answer the question.

17 THE COURT: You have asked -- and I'm not criticizing
18 you. I know you think I am. You've asked open-ended
19 questions about this, that's why she's giving you open-
20 ended. Just go -- if this in evidence, just say, "You
21 googled 'hos long to die in cold'."

22 MR. JACKSON: I have --

23 THE COURT: Mr. Lally just provided that?

24 MR. YANNETTI: No, the court officer did.

25 THE COURT: Great.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-126

1 MR. JACKSON: Yeah, and this is part of the record, by
2 the way.

3 THE COURT: Okay. It has a yes in there.

4 MR. BRENNAN: She's not a Cellebrite expert.

5 THE COURT: Oh, it doesn't --

6 MR. BRENNAN: This has not been interpreted -- she can
7 look at this, but that is not something that she should be
8 examining on.

9 THE COURT: Is it in evidence?

10 MR. JACKSON: I don't know. I'm not saying it's not.

11 THE COURT: So a court officer gave it to you. So is
12 it in --

13 MR. YANNETTI: He had to have gotten it from our team.

14 MR. BRENNAN: Is it in evidence?

15 MR. ALESSI: It's in through Mr. Whiffin.

16 THE COURT: Okay. All right. So if it's in through Mr.
17 Whiffin, you can go ahead and put it up.

18 MR. JACKSON: Okay.

19 THE COURT: Hold on.

20 MR. ALESSI: We're double-checking. It's not in
21 evidence.

22 MR. BRENNAN: Oh, boy.

23 MR. ALESSI: We record it was. We had somebody to
24 check. They rechecked --

25 THE COURT REPORTER: Counsel.

1 THE COURT: Okay. You need to be here.

2 MR. ALESSI: Yeah, we just went. We were told it was
3 in evidence. We wanted to make sure. We had somebody
4 check. It is -- it's not in evidence, correct? It's not in
5 through Mr. Whiffin.

6 THE COURT: All right. So that part of that cannot get
7 up on the screen. It's already been up on the screen. I'd
8 prefer you just show here the piece of paper.

9 MR. JACKSON: Take the column down?

10 THE COURT: It's already been up. I'd prefer it not go
11 back up on the board.

12 end of sidebar.)

13 THE COURT: Go ahead.

14 MR. JACKSON: Thank you.

15 Q We found the paper.

16 MR. JACKSON: Thank you for the patience, Your Honor,
17 and Ms. McCabe.

18 May I approach?

19 THE COURT: Yes.

20 MR. JACKSON: May I approach?

21 THE COURT: Yes.

22 Q You indicated you wanted to see a record, Ms. McCabe.
23 Did you see a record that indicated a Google search, not
24 what the content of the Google search is, but there was a
25 Google search?

1 A I just saw a Cellebrite record, yes.

2 Q And did you see the time of that Google search?

3 A On that record, yes.

4 Q Is it 2:27 a.m., correct?

5 A Yes.

6 Q Ultimately, you will agree that there was a Google
7 search done, and now I'm going to ask you about the content
8 of, "hos long to die in cold," correct?

9 A That was done in the morning at the request of Ms.
10 Read.

11 Q Ms. McCabe, I didn't ask you that. I asked you a yes
12 or no question.

13 Did you understand my question?

14 A Could you repeat it, please?

15 Q Sure. I'd be happy to.

16 A Thank you.

17 Q Did that record indicate that there was a search at
18 some point done at some point for "hos long to die in
19 cold"?

20 MR. BRENNAN: I object to with her reading the record.

21 THE COURT: So was there a search on that at some
22 point?

23 THE WITNESS: On that paper, was there a search that
24 said that? Is that your question?

25 Q Let's start with that. Was there?

1 A Yeah, there was.

2 Q Okay. Now let me ask you a different question. You
3 Google searched the phrase, "hos long to die in cold," yes
4 or no?

5 A Yes.

6 Q On January 29, correct?

7 A Yes.

8 Q So you agree that you were on Google, correct?

9 A Yes.

10 Q You would agree that there was a search done at 2:27
11 a.m., correct?

12 A I don't recall doing a search at 2:27. The paper says
13 it. I don't you.

14 Q Okay. And you also agree that at some point that
15 morning, you plugged into that phone, "hos long to die in
16 cold," is that right?

17 A Yes. After we found John O'Keefe.

18 Q Now, you claim that that was at 6:23 and 6:24 in the
19 morning, two iterations of how long to die in the cold?
20 "Hos long to die in cold?" "How long T-I die in C-I-K-D,"
21 correct?

22 A I'm not claiming it. It's the truth. It's what
23 happened.

24 Q You're testifying to that?

25 A Yes, I am.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-130

1 Q You also testified that at the time you Google searched
2 those phrases, it was Karen Read screaming and yelling at
3 you, shaking you, to Google hypothermia, correct?

4 A She was pulling on my sleeve, yes.

5 Q Is that a yes or no?

6 A Yes.

7 Q You discussed this Google search and the issue of the
8 hypothermia with Kerry Roberts, correct?

9 A I told her in the days following --

10 Q Yes or no, you discussed it or no?

11 A Yes.

12 Q You discussed it in the days following January 29,
13 correct? A Yes.

14 Q You discussed it before her testimony at the grand
15 jury, correct?

16 A We discussed it after. We both -- we don't talk about
17 what we're going to say before testifying or anything like
18 that.

19 Q So in the three months between this incident and the
20 testimony by both you and Ms. Roberts, you two did not
21 discuss this hypothermia issue?

22 A It wasn't an issue. It was just something she said,
23 but we don't discuss it every day. There's no need to.

24 Q I didn't ask you if you discussed it every day. I
25 asked you had you ever discussed it?

1 A Originally, yes, we did discuss it and the --

2 Q And that would have been before either one of you
3 testified at the grand jury, correct?

4 A Yes.

5 Q And we know that you were with her during her -- sorry
6 -- just before her testimony at the grand jury; is that
7 right?

8 A Yes.

9 Q And you're certainly aware that at the grand jury that
10 in prior testimony, Kerry Roberts corroborated your
11 statement that Karen Read demanded to Google hypothermia?

12 MR. BRENNAN: Objection.

13 THE COURT: Ask it differently, Mr. Jackson.

14 Q Are you aware that Kerry Roberts -- let me ask it a
15 different way.

16 Have you and Kerry Roberts ever discussed the fact that
17 she corroborated your statement that Karen Read demanded
18 that you Google hypothermia? She never told you that?

19 A No.

20 Q Did you ever ask her that?

21 A No.

22 Q Did you two discuss your statement that Karen Read was
23 the one that demanded that search?

24 A Karen Read did ask me to do that search, yes.

1 Q Okay. That's not what I asked you. Did you and Kerry
2 Roberts discuss that?

3 A Yes, we talked about that.

4 Q Are you aware that last week Kerry Roberts denied
5 hearing that statement?

6 MR. BRENNAN: Objection.

7 THE COURT: Sustained.

8 Q Have you been told, have you been updated that last
9 week Kerry Roberts denied ever having heard that statement?

10 MR. BRENNAN: Objection.

11 THE COURT: Sustained.

12 MR. JACKSON: May we approach?

13 THE COURT: Yes. All right. Jurors, feel free to stand
14 up and stretch.

15 (Sidebar commences:

16 THE COURT: All right. There's a sequestration order,
17 and she said that she is not aware of this, so let's move
18 on.

19 MR. JACKSON: She didn't say that. You won't let her
20 answer.

21 THE COURT: Well, she can't answer it. What's your
22 objection?

23 MR. JACKSON: Yes, she can answer it.

24 MR. BRENNAN: It's twofold. One, Attorney Jackson is
25 characterizing past testimony inaccurately, and that

1 characterization leaves the impression with the jury that's
2 what Kerry Roberts said. That is not the testimony.
3 Unless it's in a transcript, that is not my memory of the
4 testimony. And secondly, the question is whether or not
5 they violated sequestration. If that's the question, then
6 it can be asked. But mischaracterizing a conclusion to
7 somebody's testimony that she denied it and then
8 confronting a different witness with what Kerry Roberts did
9 at a different testimony is improper.

10 MR. JACKSON: First --

11 THE COURT: I was concerned about the sequestration. I
12 know she has a lawyer. That was my concern.

13 MR. JACKSON: Well, I --

14 THE COURT: Do you care about that?

15 MR. BRENNAN: The sequestration order?

16 THE COURT: The fact that she's being questioned as to
17 whether or not she violated a sequestration order without
18 being able to consult counsel.

19 THE COURT: I mean, I would have no reason -- I mean, I
20 would have no reason to be concerned. I've never spoke to
21 her. If she answers something that's incriminating, I
22 wouldn't expect it, but I don't know.

23 MR. JACKSON: First of all, I didn't mischaracterize
24 what Kerry Roberts said last week. Mr. Brennan was here.
25 I was here. She absolutely --

1 THE COURT: I'm concerned on the sequestration part,
2 that's all.

3 MR. JACKSON: I want to make sure the record is clear
4 that I didn't mischaracterize anything. On that witness
5 stand --

6 THE COURT: That's fine.

7 MR. JACKSON: -- Kerry Roberts denied having heard it.
8 She absolutely denied having heard it.

9 THE COURT: Yeah, I'm not concerned about any
10 mischaracterizations; it's not an issue.

11 MR. JACKSON: I want an answer from this witness
12 whether or not she's aware that Kerry Roberts has now
13 denied that.

14 THE COURT: That's it. Ask her just that.

15 MR. BRENNAN: I was not implying that Kerry Roberts
16 didn't deny hearing it. Kerry Roberts did deny hearing it.
17 The way I heard your question was different, but as far as
18 Kerry Roberts, she did say she didn't hear that.

19 THE COURT: Just ask her if she's now aware that Kerry
20 Roberts hearing it.

21 MR. JACKSON: Okay.
22 end of sidebar.)

23 THE COURT: Go just one question on this. Just one
24 question on this, please, Mr. Jackson.

1 Q Have you become aware from any source that last week
2 Kerry Roberts denied having heard the statement that was
3 attributable to my client? Are you aware of that?

4 A No.

5 Q You've seen -- you reviewed the video from the dash-cam
6 of the scene, correct?

7 A I've seen it, yes.

8 Q You're aware that there is no video showing my client
9 demanding a Google search anywhere in this case, correct?

10 A I'm not sure what cameras were where.

11 Q You're aware that there's no audio of my client
12 demanding a Google search, correct?

13 A Correct.

14 Q You're unaware of any witness, any witness who can
15 corroborate your statement that my client demanded a Google
16 search, any witness at all?

17 A It was just the two of us. She had sent Kerry off.

18 Q So, of course, Kerry Roberts is not such a
19 corroborating witness, is that right, at least you
20 understand that.

21 A Can you rephrase the question, please?

22 Q Kerry Roberts is not a corroborating witness for you,
23 you understand that? You just said that.

24 A Yes, Kerry I don't believe heard it. That's what I
25 thought.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-136

1 Q So it's your word and your word only, Ms. McCabe, that
2 my client demanded a Google search; is that right?

3 A Yes.

4 Q Ms. McCabe, you were with Kerry Roberts just before her
5 grand jury testimony; is that right?

6 A Yes.

7 Q You had been with her to create a timeline of a version
8 of events that occurred, correct?

9 A I wouldn't say a version of events. We each put down
10 what we remember.

11 Q She saw what you put down. You saw what she put down?

12 A Yes.

13 Q And you compared and contrasted those with each other
14 to create that timeline, correct?

15 A No, we didn't compare and contrast. I said she called
16 me, she said this, and then Kerry -- and someone was
17 writing it down for us.

18 Q That would be your sister, who?

19 A It was my sister, yes.

20 Q Which sister?

21 A My sister Denise.

22 Q What's her last name?

23 A Galvin.

24 Q Is she here?

25 A She is here, yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-137

1 Q Where is she?

2 A She's sitting over there.

3 Q Can you point to her and describe what she's wearing?

4 A Sure. She's over there in the back with the striped
5 shirt on.

6 Q Between the gentleman in the purple and the gentlemen
7 in the black?

8 A Yes.

9 Q So she witnessed this timeline being prepared, correct?

10 A She wrote the timeline, yes.

11 Q And then you've spoken to Ms. Roberts several times
12 about this case?

13 A Yes.

14 Q And about your perceptions of this case, correct?

15 A We talk about what happened and the aftermath of this
16 case. We don't talk about the specific details as much as
17 we talk about the aftermath of everything.

18 Q Ms. McCabe, the fact is you instructed Kerry Roberts to
19 say that she heard that Google hypothermia statement from
20 my client before she testified at the grand jury, didn't
21 you?

22 A No, absolutely not. I never instructed her to do
23 anything.

24 Q You wanted some witness to backup your story about this
25 Google search, correct?

1 A No, absolutely not.

2 Q Ms. McCabe --

3 A It was said. Karen said it. It's that simple.

4 Q So you're the only person saying that, correct?

5 A Yes, and I stand by that 110 percent.

6 Q And the reason that you wanted another witness to back
7 up that statement is because you knew that that Google
8 search for "hos long to die in cold" points a very
9 uncomfortable finger right toward you, correct?

10 A I never did that search at 2:27. I never needed to
11 instruct somebody. It's, no, I'm sorry.

12 Q You are -- there's that apology again. Has someone
13 told you that you need to apologize when you say -- when
14 there's an uncomfortable question that you don't want to
15 answer?

16 A No.

17 Q Have you discussed this with anybody?

18 A No, and that's not an uncomfortable question. I'm
19 trying to answer it.

20 Q How many times did you say I apologize yesterday on
21 cross-examination?

22 A I didn't count.

23 Q Probably more than 15, right?

24 A I have no idea. I'm just trying to answer the
25 questions and be truthful as I can.

1 Q And you're aware that Cellebrite, the Cellebrite
2 extraction that we've done on your phone determined that of
3 the three searches, 2:27 a.m., 6:23 a.m., and 6:24 a.m.,
4 only one of them was recorded as deleted, correct?

5 MR. BRENNAN: Objection.

6 THE COURT: Sustained.

7 Q Have you ever been confronted of having deleted a
8 Google search off your phone?

9 A Yes.

10 Q Have you ever been asked that?

11 A Yes, by you.

12 Q Do you deny that you deleted a Google search off your
13 phone? A I never deleted a Google search off my phone.

14 Q So you deny that?

15 A I deny it, yes.

16 Q That you ever deleted the Google search.

17 A Yes. I never made the search.

18 Q I'd like to move back to time of about 6:03 in the
19 morning, Ms. McCabe, when you, along with Kerry Roberts and
20 Ms. Read approached 34 Fairview.

21 This is Exhibit 4 that's been previously entered into
22 evidence. I think you've seen part of this exhibit.

23 Do you recall -- before we get to the exhibit, do you
24 recall my client when the first officer on the scene -- do
25 you know his name, by the way?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-140

1 A I believe it was Officer Saraf.

2 Q When Officer Saraf approached, he asked the question,
3 "What happened?" Something like that. An open-ended
4 question. Do you remember that?

5 A I don't remember what he specifically said.

6 Q Do you remember my client, a few seconds later, saying,
7 "My boyfriend, I left him. He never came home?"

8 A I don't remember the specifics of what was said.

9 MR. JACKSON: Your Honor, if we could, I would ask that
10 we cue up Exhibit 4 for the jurors at runtime 420.

11 THE COURT: Okay.

12 Q Before we play this, I'm going to play just like a
13 second of it, and ask if you can hear the volume.

14 MR. JACKSON: If we could, Mr. Wolk.

15 Q Could you hear anything?

16 A Oh, I can hear it, yes.

17 Q I don't how loud it's going to be, quite frankly.

18 (Video played.)

19 Q Ms. McCabe, will you please attention to the audio
20 portion of this video as you -- as this is played.

21 (Video played.)

22 Q Could you hear that?

23 A I heard something.

24 Q Could you hear my client? Did it sound like Ms. Read?

25 A It sounded like a female.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-141

1 Q Did it sound like Ms. Read, the female?

2 A I'm not sure. Could I listen to it again?

3 MR. JACKSON: With the Court's permission, one more
4 time?

5 THE COURT: One more time.

6 Q Could you hear it?

7 A I could hear it, yes.

8 Q What did she say?

9 A I have no idea.

10 Q Did she say, "My boyfriend. I left him. He never came
11 home?"

12 A I could not make that out.

13 Q You testified on direct examination that you were
14 basically a passenger along in this ride along the early
15 morning hours of January 29, 2022, that you were not the
16 person in charge, correct?

17 A I was in the passenger seat. Ms. Roberts was driving.

18 Q It was a bad question on my part. Let me see if I can
19 reframe that.

20 You testified that it was Kerry Roberts was basically
21 the take charge person in the scenario between and among
22 the three of you: you, Ms. Read, and Ms. Roberts, correct?

23 A Yes.

24 Q Not you, correct?

25 A No.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-142

1 Q Now, you were just sort of along for the ride,
2 assisting how you could, correct?

3 A I was looking -- I was trying to help Ms. Read in
4 finding John O'Keefe.

5 Q If we could play a clip starting at -- and I'm going to
6 ask you Ms. McCabe to look at several clips. The first one
7 starting at 621, the runtime to 741. It's just over
8 minute.

9 MR. JACKSON: With the Court's permission?

10 THE COURT: Yes.

11 (Video played.)

12 MR. JACKSON: Pause, please.

13 Q Do you recognize the three individuals in the
14 foreground of this video?

15 A I do, yes.

16 Q Can you start from left to right, and describe for the
17 jurors who we're looking at?

18 A I believe that's me in the black coat. To the right of
19 me, is Ms. Roberts, and on the other side of the car is Ms.
20 Read.

21 Q Ms. Roberts has, just to distinguish, Ms. Roberts seems
22 to have fur on her hood, where you did not?

23 A Yes.

24 MR. JACKSON: If you could go ahead and play that,
25 please.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-143

1 (Video played.)

2 MR. JACKSON: Pause it, please.

3 Q Can you see who it appears you're talking to at that
4 point?

5 A I don't know who that is, no.

6 MR. JACKSON: Go ahead and play it.

7 (Video played.)

8 MR. JACKSON: Pause it.

9 Q Does it appear that you're engaged in conversation with
10 that person while Ms. Roberts is attending to something in
11 the truck and Ms. Read is running back and forth?

12 A Yes, I was speaking to whoever that was.

13 Q Do you believe that was a police officer?

14 A I believe, yes.

15 MR. JACKSON: Go ahead and play.

16 (Video played.)

17 MR. JACKSON: Mr. Wolk, if you'll stop it at 7:41,
18 please.

19 (Video played.)

20 Q Could you see what is depicted in the video about that
21 minute and ten second runtime?

22 A Yes.

23 Q Did it appear that you were engaged in a conversation
24 with that other person?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-144

1 Q When that other person walked away, could you see his
2 jacket?

3 A I couldn't make it out, no.

4 Q Did it appear he was a police officer?

5 A I'm going to assume it was a police officer, yes.

6 Q Okay. In that video, who looks more like she is taking
7 charge, you or Kerry Roberts?

8 MR. BRENNAN: Objection.

9 THE COURT: Sustained.

10 Q Did it appear in that video that you're the one
11 controlling the narrative, at least with law enforcement at
12 that point?

13 MR. BRENNAN: Objection.

14 THE COURT: Sustained.

15 Q Does it appear in that video that you're the one
16 engaging in conversation with law enforcement while Kerry
17 Roberts and Ms. Read are otherwise occupied?

18 A I am speaking with law enforcement, yes.

19 MR. JACKSON: If we could move to runtime 856.

20 (Video played.)

21 MR. JACKSON: Pause it.

22 Q Can you see yourself in that video?

23 A I can, yes.

24 Q Which person are you?

25 A I'm in the far right.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-145

1 Q Speaking to someone?

2 A Yes.

3 Q Who is that you're speaking to?

4 A I can't make it out, but it looks like a police
5 officer, possibly.

6 Q And Ms. Roberts is directly in the middle of the
7 screen; is that right?

8 A I thought that was Ms. Read, but I could be wrong.

9 MR. JACKSON: Let's go ahead and play it.

10 (Video played.)

11 MR. JACKSON: At 926, stop, please.

12 (Video played.)

13 Q In that video clip, who among the three of you appear
14 to be most engaged with law enforcement at that time?

15 MR. BRENNAN: Objection.

16 THE COURT: Can you tell? Can you answer that, Ms.
17 Read?

18 THE WITNESS: So I mean --

19 THE COURT: Ms. McCabe.

20 THE WITNESS: Yes, I can.

21 A I was speaking to police officers, yes. I was trying
22 to help them.

23 Q Okay.

24 MR. JACKSON: Can we go to runtime 1049 -- 1049 to
25 1155, Mr. Wolk.

1 (Video played.)

2 MR. JACKSON: Pause it.

3 Q Who is it that is gesticulating in the video?

4 A That is me.

5 MR. JACKSON: Go ahead and play it.

6 (Video played.)

7 Q Did you see yourself in that video, that clip, about
8 minute long clip?

9 A Yes, I did.

10 Q Who among the three of you appeared to be most engaged
11 with law enforcement in that clip?

12 A I was.

13 MR. JACKSON: Runtime 2022, Mr. Wolk.

14 (Video played.)

15 MR. JACKSON: Stop it.

16 Q Do you see yourself in that video?

17 A I do, yes.

18 Q You were just walking from frame right?

19 A Yes.

20 Q From frame right going left?

21 A Yes, behind Ms. Roberts.

22 Q And that's you right in the middle of the screen?

23 A Yes, it is.

24 Q And Ms. Roberts had already run to her -- went to her
25 SUV, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-147

1 A Yes.

2 Q We're going to play this.

3 MR. JACKSON: This is about a two minute clip for the
4 Court's information.

5 THE COURT: All right.

6 MR. JACKSON: And this is the last.

7 (Video played.)

8 MR. JACKSON: Mr. Wolk, can you pause it? Can you tell
9 who you're speaking to there?

10 A I think it's Mike Lank.

11 MR. JACKSON: Go ahead and play it.

12 (Video played.)

13 MR. JACKSON: May I just have a moment, Your Honor?

14 Q Ms. McCabe, who was most engaged in that clip with law
15 enforcement?

16 A I was.

17 Q Between and among you and Kerry Roberts and Ms. Read?

18 A I was.

19 Q You noticed when Mr. O'Keefe was placed on the gurney
20 and a fire truck had moved past you, correct?

21 A Yes.

22 Q Did you notice what your reaction was when that gurney
23 passed you?

24 A I didn't know.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-148

1 Q Did you see that you turned your back completely to Mr.
2 O'Keefe as he passed by?

3 A If that happened, it wasn't on purpose.

4 Q Ms. McCabe, when you got to the scene --

5 MR. JACKSON: You can take that down.

6 Q When you got to the scene at 6:03 in the morning, you
7 immediately recognized, did you not, that this was an
8 emergency situation, high-intensity emergency situation,
9 correct?

10 A I knew it was an emergency situation, obviously.

11 Q As a matter of fact, a man's life was in grave danger.
12 You knew that?

13 A Yes, I did.

14 Q And this was someone that was a friend of yours,
15 correct?

16 A Yes, it was a dear friend.

17 Q Not just a friend, but a police officer who was laying,
18 and as far as you knew, dying in the snow; is that right?

19 A Yes.

20 Q You knew that you needed to get immediate medical
21 attention, emergency medical attention, to him as quickly
22 as you possibly could; is that right?

23 A Yes.

24 Q You knew that minutes counted, right?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-149

1 Q You knew that's seconds counted, correct?

2 A Correct.

3 Q This man was grasping, as far as you knew, grasping and
4 clinging to life at that moment; is that right?

5 A Yes.

6 Q That's why you called 911 to get emergency personnel,
7 who are trained in CPR and lifesaving measures, to the
8 scene to the gentleman, to Mr. O'Keefe, as quickly you
9 possibly could, correct?

10 A Yes.

11 Q You called 911 at about 6:03 and 35 seconds; is that
12 right? I don't expect you to know down to the second, but
13 it's about a couple of minutes after 6:00?

14 A Right after, yeah, we found him, yes.

15 Q And you're aware from the dash cam that Officer Saraf
16 got there about 6:10, almost on the nose, right?

17 A I didn't pay attention to the time.

18 Q You'll agree with me that the was about six and a half
19 minutes or so between the time you called 911 and the time
20 Officer Saraf got there; is that right?

21 A If that's what the dash cam says, yes.

22 Q On that 911 call, you referred to John O'Keefe as a man
23 passed out in the snow?

24 A Yes.

25 Q You didn't say this is my friend?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-150

1 A I needed to get, like you said, emergency there.

2 Q Did you say this is my friend?

3 A I wasn't going to give a description and say my friend
4 is in the snow. I was going to give them the information
5 that I thought was the most important at the time.

6 Q Did you say his name?

7 A I just said a man because that was the most important
8 identifying.

9 Q You didn't say John?

10 A Eventually, in the 911, I do say his name.

11 Q You didn't initially say O'Keefe, correct?

12 A No, not at that -- not as it was a man in the snow --

13 Q And you didn't say -- and you didn't say he's a Boston
14 police officer or an off duty police officer?

15 A Again, a man needed help.

16 Q Yes or no, did you say that?

17 A I didn't.

18 Q Do you think that might've -- yes or no, do you think
19 that might have sped things up if they knew, the 911
20 operator knew, that this was a fallen officer, a fellow
21 officer?

22 A I think 911 comes to everyone equally. I don't think
23 they would have --

24 Q Do you think that might've been something important to
25 relay to the 911 officials?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-151

1 A I don't know.

2 Q You were even asked by the 911 operator, does anybody
3 know CPR, and your answer was no, correct?

4 A I'd have to listen to it to remember my exact answers.

5 Q But it was basically in the negative. No, we're not
6 professionals. We're just out here doing the best we can,
7 correct?

8 A I didn't say that, no.

9 Q You didn't believe Karen Read knew CPR?

10 A I didn't know. I don't think I answered that question.
11 I don't think I was asked.

12 Q You don't know if Kerry Roberts knew CPR, correct?

13 A I didn't know if they knew CPR, correct.

14 Q And none of you are paramedics?

15 A No.

16 Q None of you are first responders?

17 A No.

18 Q None of you are trained in emergency lifesaving
19 techniques in anyway, correct?

20 A Correct.

21 Q I have a question, Ms. McCabe.

22 On all of Fairview, the entire road between Chapman and
23 Cedarcrest, can you think of any person on that road who
24 might have had lifesaving techniques trained into them -
25 first responder, someone who knew how to deal with someone

1 in distress, someone with high-skill level training, could
2 you think of anyone on Fairview who had that kind of
3 training?

4 A Can I have, or did I then? What are you asking me?

5 Q Did you then?

6 A No, then my focus was on John O'Keefe.

7 Q Okay. Let me narrow the focus. How about on the
8 property? How about at 34 Fairview, could you think of
9 anyone who was a first responder who would have lifesaving
10 training, lifesaving technique training under his belt?

11 A Yes, my brother-in-law Brian Albert.

12 Q And you didn't go in the house, did you?

13 A No, I did not.

14 Q When you arrived at the scene, you didn't go in not
15 until much later, correct?

16 A Our focus was John.

17 Q You knew that Brian Albert was inside the house. You
18 had just been with him hours earlier, correct?

19 A Yes.

20 Q You knew that his window was 30 feet away. You were
21 staring at it. You could look at it if you wanted to,
22 correct?

23 A It's off to an angle.

24 Q And you didn't go in the house then either?

25 A I did not, no.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-153

1 Q You knew that John O'Keefe was clinging to life during
2 those precious, those precious minutes and seconds; is that
3 right?

4 A I did, yes.

5 Q And you also knew that Brian Albert, your brother-in-
6 law, was a first responder trained to deal with people in
7 that kind of distress, correct?

8 A In that moment, my only thoughts were John and
9 everything we could do for John.

10 Q And you knew that there were warm blankets inside the
11 house; is that right?

12 A I did, yes. There were warm blankets in the house --

13 Q And you still never went in, did you?

14 A No, I went and attended to John because once I finished
15 calling 911, I went over to John, and Kerry Roberts asked
16 me to take over compressions. So I felt like that was more
17 important and 911 was on the way. I never thought about
18 going in the house. I just thought how can I help John.

19 Q You never thought about going in the house, but you did
20 pull out your cell phone and made two phone calls, didn't
21 you?

22 A After I called 911, I tried calling my sister, yes.

23 Q While John was out in the cold clinging to life, you
24 weren't doing chest compressions at 6:07 and 6:08, were
25 you?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-154

1 A I was walking over when I was calling.

2 Q You were calling your sister on the phone, weren't you,
3 Ms. McCabe?

4 A I was calling them to see if they would come out, but I
5 was going right over to --

6 Q And you could've walked the 25 feet to their front
7 door, walked in the house, and screamed for Brian Albert to
8 come out and help you in those precious seconds and
9 minutes, couldn't you?

10 A That would have taken me away from helping John,
11 getting Kerry blankets, giving him compressions.

12 Q And making those two very important phone calls at 6:07
13 and 6:08 that you say were not answered, correct?

14 A Those were not important phone calls. I tried to call
15 my sister and then I focused on John.

16 Q They were not important phone calls, but they were
17 important enough for you to make while John is clinging to
18 life right there in front of you, right?

19 A As I was walking over, I called to see if she would
20 answer.

21 Q And she didn't answer. Let's talk about that. She
22 didn't answer, according to you.

23 THE COURT: So we'll well beyond the luncheon break.

24 MR. JACKSON: Your Honor, I have two more questions.

25 THE COURT: Okay.

1 MR. JACKSON: And I'll wrap it.

2 THE COURT: Okay.

3 Q Let's talk about that real quick. She didn't answer
4 the phone, did she?

5 A No, she didn't.

6 Q So you have a situation where a man is laying dead or
7 dying in the front yard of your sister's house. You see
8 nothing in terms of life inside. The house lights aren't
9 coming on. They're not getting up. They're certainly not
10 coming outside, right?

11 A They were sound asleep.

12 Q They weren't coming outside, were they?

13 A Because they were asleep.

14 Q You didn't know if they were asleep. All you knew was
15 there was a severely injured man on the front lawn of their
16 house, and your sister didn't answer the phone - not once,
17 but twice, correct?

18 A Correct. She didn't answer the phone.

19 Q Did you think your sister might have been in peril? Did
20 you think to go inside the house and check that they're
21 okay?

22 A I had no reason to think that they weren't okay.

23 Q You had no reason to believe they weren't okay. A man
24 was dead or dying on their lawn, and your sister is not
25 answering the phone, and nobody is coming out to the chaos

1 of Karen Read screaming on their front lawn. You didn't
2 think there were some reason to believe they could have
3 been in peril?

4 A I didn't because your client was screaming that she hit
5 him, she had a cracked taillight.

6 Q Oh, so you --

7 A I didn't --

8 Q Ms. McCabe --

9 A -- but my focus -- can I finish, please?

10 Q You had solved the whole crime right then and there.
11 You solved the whole case?

12 A No, I didn't. I knew John never came in the house, so
13 I had no concern for anyone's safety inside the house.

14 Q The reason you didn't go inside the house is because
15 you knew better. You knew better. You knew she wasn't in
16 peril. You knew that Brian Albert wasn't in peril. You
17 weren't worried at all about them, were you?

18 A I was not worried at all because something happened on
19 the front lawn that had nothing to do with anything inside
20 that house.

21 Q You weren't worried about them at all because you knew
22 what really happened, didn't you, Ms. McCabe?

23 A At that moment, I didn't know that he was hit by a
24 vehicle and there was taillight found next to him.

25 MR. JACKSON: That's all I have, Your Honor.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-157

1 (Court in recess at 1:07 p.m.)

2

3

4

5 (Court in session at 1:59 p.m.)

6 THE COURT: All right. So counsel is ten minutes late.
7 I just as I was walking out here, was told that the week
8 Commonwealth needs to see me.

9 MR. BRENNAN: May I be heard?

10 THE COURT: Oh, hold on. Ms. Read's not here.

11 (Defendant is present with counsel.)

12 THE COURT: Counsel wanted to see me here or at
13 sidebar?

14 MR. BRENNAN: I have no preference.

15 THE COURT: If it's something to be done in open court,
16 go right ahead.

17 MR. BRENNAN: So we had mentioned earlier at the end of
18 Ms. McCabe's testimony, I have clips that I would like to
19 play. There is a dispute regarding two of them and had
20 given previous notice to the defense. They would like
21 different content in than I would, and I would hope to have
22 a Court's ruling before I played them.

23 THE COURT: All right. So I received an envelope, court
24 copy clip seventeen was the only one I was given.

1 MR. BRENNAN: That's a new one. The other ones were
2 previously turned over to the Court.

3 THE COURT: Okay.

4 MR. BRENNAN: The ones we had a dispute on are clip 13
5 and clip 15.

6 THE COURT: Okay. So I viewed the other clips. There's
7 an objection to 13 and 15?

8 MS. LITTLE: Yes, Your Honor.

9 THE COURT: Is there an objection -- all right. Let's
10 play them. They're quick, right?

11 MR. BRENNAN: Yes, they are.

12 THE COURT: Play them very quickly.

13 MS. LITTLE: Your Honor, just to clarify, it's not that
14 we object to playing them, it's that they're incomplete.
15 So she didn't finish her answer. So we're just asking it
16 be extended so she can actually give a complete answer. So
17 we produced alternative clips. So there's two for each,
18 thirteen and clip fifteen.

19 THE COURT: All right. So the Commonwealth gets to play
20 what they want, and then you play yours at some point, too.
21 All right.

22 MR. BRENNAN: If we don't have time, I can wait to have
23 a hearing because I don't think the defense can play its
24 self-serving statement because I think --

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-159

1 THE COURT: All right. I haven't seen it. I saw clip
2 17. I have no problem with clip 17 coming in.

3 MR. BRENNAN: I don't think they have an objection to
4 17. The ones that are objectionable, I know we were pressed
5 on Friday. I can hold them until next week until the
6 dispute becomes more clear for the Court.

7 THE COURT: Okay.

8 MR. BRENNAN: Because it sounds like it's going to take
9 more time than I thought.

10 THE COURT: So I need what you have, Ms. Little.

11 MS. LITTLE: Okay.

12 THE COURT: I need that to review that this weekend.

13 MS. LITTLE: Understood.

14 THE COURT: Anything else?

15 MR. BRENNAN: The second issue is I should approach
16 sidebar.

17 (Sidebar commences:

18 MR. BRENNAN: In questioning Ms. McCabe, Mr. Jackson
19 asked her about her relationship with Trooper Proctor,
20 including a number of phone calls, and he included a number
21 of phone calls that she had with him in July. She met with
22 Lieutenant Tully and that was part of the questioning. The
23 purpose of meeting with Lieutenant Tully and having those
24 phone calls in July was because the ongoing harassment she
25 was receiving as a result of being a witness in this case.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-160

1 And so I believe it's opened the door for her to be able to
2 talk about why she had this ongoing relationship with
3 Trooper Proctor, and also why she was being interviewed by
4 Trooper Tully in July.

5 I'm mindful that I'm not trying to run through the door
6 and attribute bad acts to the defense, but it puts in
7 context why that relationship continued. It's a
8 centerpiece of their defense that anything Trooper Proctor
9 has touched has been tainted, and that's the implication I
10 believe they'll argue relative to Ms. McCabe. And so I
11 think she should be able to go in to it a little bit.

12 THE COURT: Briefly.

13 MR. JACKSON: That's not at all what I asked. I asked
14 very specifically tell me about the content. The only
15 reason I asked the question is because she denied having
16 met him. It doesn't matter the context in which she met
17 him. She simply said, "I have never him before."

18 THE COURT: Are you going to focus on the number of
19 times that she has spoken with him at some point in your
20 closing argument?

21 MR. JACKSON: Probably not. The fact that she simply
22 said, "I've never met him before," that's the key. It
23 doesn't matter if she had met him to go to lunch or met him
24 to deal with harassment or met him to look at taillights.

1 THE COURT: No, that's not the argument I heard. It's
2 the number of calls to Proctor to Tully that's what you're
3 saying?

4 MR. BRENNAN: Yes, and the length of the relationship
5 that extended past any investigation, but all those calls
6 in July and after were because of intimidation of witness
7 complaints. Not because of this case, and the jury should
8 know that.

9 MR. JACKSON: And the only calls that I showed, very
10 specifically, were up through March of 2022, before any
11 harassment had ever taken place.

12 THE COURT: You --

13 MR. BRENNAN: He only showed those --

14 THE COURT: -- mentioned you saw --

15 MR. BRENNAN: -- 23.

16 MR. JACKSON: Which is one she was interviewed and said
17 I'd never met him before. This was just an issue that have
18 nothing to do with content.

19 THE COURT: Well, I need the transcript because I
20 didn't see the opening of the door on this. I had concerns
21 on something else, but is that it?

22 MR. BRENNAN: Yes.

23 THE COURT: So I need the transcript and maybe you call
24 Ms. McCabe back again on Monday. Sorry, Chrissy, I need
25 that transcript. All right?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-162

1 MR. BRENNAN: Okay. Yes.

2 THE COURT: I took it as the number of calls and the
3 time. I wasn't paying attention to specifically opening
4 the door on this. So if that's the argument, I need to
5 take a closer look.

6 MR. BRENNAN: I understand.

7 THE COURT: So we'll do -- hopefully this is very
8 short. You cannot be ten minutes late again, especially on
9 a Monday -- on a Friday afternoon where we gave you an
10 extended break this morning to get records for you that you
11 could have got yesterday when we were in session.

12 MR. JACKSON: My apologies.

13 THE COURT: It's got to stop. The jury has been
14 waiting for 15, 20 minutes.

15 MR. JACKSON: Understood.

16 THE COURT: We'll bring them right in.

17 MR. JACKSON: Okay.

18 THE COURT: Hopefully it's a very short redirect.

19 MR. BRENNAN: Understood. There are some text messages
20 I'm going to read.

21 THE COURT: I'm sorry?

22 MR. BRENNAN: There are some --

23 THE COURT: Come up.

24 MR. BRENNAN: I'm sorry.

25 THE COURT: Bring them up anyways.

1 MR. BRENNAN: I'm sorry.

2 THE COURT: That's okay.

3 MR. BRENNAN: We had the issue regarding state of mind.
4 I'm not going to look to resolve it the text messages, but
5 there's a series that put those in context and I expect I'm
6 going to ask her to read those text messages. That will
7 take the most time during redirect examination.

8 THE COURT: Okay. So on the videos that I watched again
9 yesterday, I watched everything that's been given to me, I
10 didn't have a problem with them coming in. So if you want
11 to put them in over the objection, than the defense can
12 give me what you want to add, and I'll have a decision for
13 you by Monday whether that comes in or not.

14 MR. BRENNAN: So the two in dispute I won't put in
15 until you make decision, and the other ones I will put in.

16 THE COURT: All right. What I'm saying is you can put
17 those two subject to whether or not they can be extended.
18 It's up to you --

19 MR. BRENNAN: I don't want to take that chance --

20 THE COURT: Okay. It's up to you.

21 MR. BRENNAN: -- if the Court doesn't agree.

22 THE COURT: Okay.

23 MR. BRENNAN: So I'll wait on those two.

24 THE COURT: Ms. Little, what do I have in my hand?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-164

1 MS. LITTLE: This is clip 15. We don't have the
2 recording of the other clip that you all proposed, and but
3 we have it as a transcript and I gave you a copy of that.

4 MR. BRENNAN: The ones that are in dispute I will not
5 put in today.

6 MS. LITTLE: Okay. I just wanted to give a copy to the
7 Court.

8 THE COURT: So this is 15.

9 MS. LITTLE: Yes.

10 THE COURT: Would you mark that for me, please? And
11 we'll mark that for identification.

12 MR. JACKSON: These will go in after Ms. McCabe is
13 finished?

14 MR. BRENNAN: Yes.

15 THE COURT: All right.

16 end of sidebar.)

17 (Whereupon Exhibit O, Redacted Set of Photos of Katie
18 McLaughlin and Caitlin Albert, was marked for
19 identification.)

20 THE COURT: I was just given a copy of what the defense
21 has handed to clip 15 for my review this weekend. It's not
22 an exhibit. It's for identification.

23 (Whereupon Exhibit P, Redacted Set of Photos of Katie
24 McLaughlin and Caitlin Albert, was marked for
25 identification.)

1 THE COURT: All right. Is the jury ready?

2 (Jury in.)

3 THE COURT: Can we bring in Ms. McCabe, please?

4 Jurors, I know I said it was a 45 minutes lunch. I
5 apologize. No one intended to waste your time like this,
6 particularly when we don't have much time left.

7 Ms. McCabe, please.

8 (Witness present.)

9 THE COURT: All right. Whenever you're ready, Mr.
10 Brennan.

11 MR. BRENNAN: Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MR. BRENNAN:**

14 Q Good afternoon, Mrs. McCabe.

15 A Good afternoon.

16 Q I want you to briefly tell your memory of the weather
17 when you first arrived at Fairview, when you left at
18 Fairview, and when you returned the next morning a little
19 after 6:00 a.m.

20 A Okay. When I arrived at Fairview on the early hours of
21 the 29th, the snow was falling, you know, it just started
22 to fall. It was starting to stick to the street and onto
23 the windshields. When I left Fairview, it had, you know,
24 accumulated more where my husband had to wipe the windows.
25 And then the following morning, when we were driving there,

1 it was dark and the snow was like coming at the car. Like,
2 it was very hard to see.

3 Q When you returned the next morning, we've seen video
4 from the dash cam. The elements, the visibility, is that
5 fairly depicted in that dash cam?

6 A Yes. I mean, obviously, it was lit more because of the
7 lighting and the spotlights, et cetera.

8 Q From the moment that you first saw John and until you
9 went into your sister's home, is it fair to say a number of
10 different first responders arrived?

11 A Yes.

12 Q When the first responders arrived, did you see a number
13 of different vehicles arrive?

14 A I did, yes.

15 Q Did any of them have their sirens on?

16 A Not that I recall.

17 Q The ambulance, the fire truck, police cars, do you
18 remember ever any siren on at all?

19 A Not that I recall, no.

20 Q Your sister and brother-in-law, you described how you
21 went in the house and woke them up. They never came up
22 before you woke them up?

23 A No, they didn't.

24 Q There was a house right next to where you found John
25 before 34, do you know what address that is?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-167

1 A I would assume it's 32.

2 Q Did you ever see anybody come out of 32 Fairview and
3 come over to John and the scene to help out?

4 A No.

5 Q Across the street, there's a house that's in between 32
6 and 34, across the street?

7 A Yes.

8 Q Did you ever see anybody come out of that house and
9 offer assistance and help?

10 A No.

11 Q There's a house right across the street from 34
12 Fairview, isn't there?

13 A Yes.

14 Q And did anybody, anybody, ever come out of that house
15 come over assist?

16 A No.

17 Q When you were trying to help John that moment, had you
18 ever been trained in emergency aid?

19 A Probably 25, 30 years ago.

20 Q Your state of mind, best describe how you were feeling
21 at that moment as far as your focus and what was going
22 through your mind.

23 A I was shocked, confused, nervous, scared, anxious. My
24 friend was lying there on the ground. I had no idea what

1 happened. All I wanted to do was get help for John as fast
2 as I could.

3 Q You saw on the dash cam, you spoke to a number of
4 different people in law enforcement?

5 A Yes.

6 Q In fact, during that day a number of different people
7 from law enforcement, did they call you?

8 MR. JACKSON: Objection.

9 THE COURT: I'll allow that. Move along, too, Mr.
10 Brennan, please.

11 Q Did a number of people call you from law enforcement
12 that day?

13 A On the day of the 29th?

14 Q Yes.

15 A Michael Proctor called me.

16 Q Did you speak to law enforcement after that date?

17 A Yes.

18 Q Were you asked to engage in interviews?

19 A Yes.

20 Q Were you asked to testify in front of grand juries?

21 A Yes.

22 Q Were you asked to come to court to testify?

23 A Yes.

24 Q Did you ever once refuse to speak to the police?

25 A No.

1 Q Did you ever once refuse to testify?

2 A No.

3 Q When you were speaking to the police on that dash cam
4 -- speaking on the dash cam, why were you speaking to the
5 police?

6 A Well, each officer that arrived had a set of questions
7 of who it was, what happened, etc. So I was answering all
8 the questions because my main focus was John.

9 Q Did you ever try to be evasive with the police?

10 A No, I told him everything I knew.

11 Q Do you ever try to avoid speaking to them?

12 MR. JACKSON: Objection.

13 THE COURT: To the form.

14 Q Did you ever hold anything back from the police when
15 you spoke to them?

16 MR. JACKSON: Objection.

17 THE COURT: I'll allow that, and then let's move on,
18 Mr. Brennan, please.

19 A No, I didn't.

20 Q When you interviewed with many different law
21 enforcement or people involved in this case, were you ever
22 given an opportunity to review somebody else's report after
23 it was written and provided editory or input?

24 MR. JACKSON: Objection.

25 THE COURT: I'll allow it.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-170

1 A No.

2 Q When you testified, are you testifying from what
3 somebody wrote that interpreted what you said months or
4 years ago, or are you testifying from your own memory?

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow it.

7 A I'm testifying from my own memory.

8 Q Did you call 911?

9 A Yes.

10 Q In that morning when you called 911 -- well, let me ask
11 you. Do wear an Apple Watch?

12 A I do have one, yes.

13 Q When you were speaking with 911 the morning or during
14 that event, how did you feel?

15 A Extremely nervous, anxious, scared, uncertain,
16 panicked.

17 Q Do you think your heartbeat was up?

18 A Yes.

19 Q At 2:27 the night before or around that time when you
20 were looking up Hockomock before you went to bed, were you
21 in the same state of mind of fear and panic, or were you in
22 a very different state of mind?

23 MR. JACKSON: Objection.

24 THE COURT: Strike the fear and panic. You can answer
25 that. Are you in the same mind or different?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-171

1 A Different.

2 Q What was your state of mind at that time?

3 A I was relaxed, just playing on my phone, looking at
4 things before I went to bed.

5 Q Do you think your heartbeat was as elevated that
6 evening as it was the next morning?

7 MR. JACKSON: Objection.

8 THE COURT: Sustained.

9 Q When you made the search for how long to die in the
10 cold, or how long to die in cold, is that something you
11 thought of yourself?

12 MR. JACKSON: Objection.

13 THE COURT: I'll allow it.

14 A No.

15 Q Why did you do it?

16 A Ms. Read asked me to Google it.

17 Q And when was that?

18 A That was in the morning after we found him.

19 Q And had you ever attempted either of those searches
20 before Ms. Read asked you to do that?

21 A No, I didn't.

22 Q You were asked questions about the next day when you
23 visited the O'Keefe home and you read some records. Do you
24 remember those questions?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-172

1 Q Do you remember going to the O'Keefe home?

2 A I do, yes.

3 Q You went with who?

4 A With Kerry and our two daughters.

5 Q Do you remember how many hours you spent with the
6 O'Keefe family?

7 A I don't remember how many hours. I would say a few.

8 Q Was it over three or four?

9 A It could've been. I'm not sure.

10 Q What is the reason that you spent so much time with the
11 O'Keefe home the next day?

12 A We went over to offer support, love, comfort, to be
13 with them.

14 Q You weren't avoiding them, were you?

15 A No.

16 MR. JACKSON: Objection.

17 THE COURT: Sustained.

18 Q After you left the O'Keefe home, and reading the
19 records, I don't know if this is your memory, I would
20 suggest it was 5:12. Do you remember going to Fairview?

21 A I remember driving by Fairview on the way to Mike
22 Lank's.

23 Q When you what to Fairview, you were asked questions
24 about when you stopped by whether that meant you went in or

1 outside. Do you remember whether you went in or were
2 outside?

3 A We never went in.

4 Q Have you seen your phone records that there are no
5 calls to your sister when you went by Fairview at that
6 time?

7 MR. JACKSON: Objection.

8 THE COURT: I'll allow it.

9 A I haven't, no.

10 Q And when you went by, you were asked about that. In
11 fact, you had been asked about that before, hadn't you,
12 whether you stopped by?

13 A Yes.

14 Q And Attorney Jackson showed you part of that statement?

15 A Yes.

16 Q Did you -- when you were saying that's part of the
17 statement, did you read the whole statement to yourself?

18 A I did.

19 Q And if you could put that in completeness, had you
20 under oath talked about the fact that you went by that day?

21 A I'm confused by your question.

22 MR. BRENNAN: Okay. May I approach?

23 THE COURT: Yes.

24 MR. BRENNAN: Page 181 to 182.

25 Q You were shown page 181 and then 182?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-174

1 A Yes.

2 Q And so when you were asked about that before, had you
3 in fact offered under oath you did go by Fairview?

4 A Yes.

5 Q When you stopped by Fairview, according to the
6 questions you were asked or the records you were asked to
7 read, it was four minutes you stopped by Fairview. Does
8 that sound like your memory?

9 A No, I know we drove by, slowed down. We were looking
10 outside.

11 Q Why did you want to go back to the very scene that you
12 had seen that morning?

13 A I think with Kerry and I just -- I'm not really sure.
14 I think we just drove down.

15 MR. JACKSON: Objection.

16 THE COURT: All right. So your answer is not really
17 sure.

18 THE WITNESS: Okay.

19 THE COURT: Next question.

20 Q And then according to the records that were read to
21 you, you went to Detective Lank's house?

22 A Yes.

23 Q And you were at that address for about 40 minutes, 50
24 minutes?

25 A Yes.

1 Q You were read or shown certain text messages between
2 you and some of your family?

3 A Yes.

4 Q Was that a complete listing of the text messages in the
5 order that were on your phone?

6 A I have a lot of text messages of them on my phone, yes.

7 Q Were some missing from what you were shown?

8 A I'm not sure.

9 Q Okay. You were asked about your state of mind. I'm
10 going to ask you about some of those text messages in a
11 minute.

12 You were asked about calls and text messages to John
13 O'Keefe?

14 A Yes.

15 Q Have you ever inadvertently called anybody before on
16 your iPhone?

17 MR. JACKSON: Objection.

18 THE COURT: I'll allow it.

19 A Yes, many times.

20 Q And you were asked whether or not you remembered or
21 knew that those calls were made to Mr. O'Keefe?

22 A Yes.

23 Q Did you purposely make those calls?

24 A No, I do not believe so.

1 Q If you inadvertently called on purpose, it wouldn't be
2 inadvertent, would it?

3 A True.

4 Q John never -- did John ever answer any of your calls
5 after that 12:18 call?

6 A No, he didn't.

7 Q And when you're reaching out to him, did you reach out
8 to him the next morning after you heard from the defendant?

9 A I did, yes.

10 MR. JACKSON: Objection, Your Honor. May I approach?

11 THE COURT: No, next question, Mr. Brennan.

12 Q Why were you reaching out to him?

13 A Because I was trying to get in touch with him because
14 Ms. Read said he didn't come home.

15 Q You were asked about your state of mind over the next
16 couple of days?

17 A Yes.

18 Q And I'd like to ask you about some of the text messages
19 reflecting your full state of mind over the next couple of
20 days?

21 MR. JACKSON: Your Honor, may we approach, please?

22 THE COURT: This has to be really brief.

23 (Sidebar commences:

24 THE COURT: How many text messages are you --

1 MR. BRENNAN: There's a lot, 30, 40. Your Honor, I'm
2 trying to be expedient. In fact, my redirect I was going
3 to spend 20 to 30 minutes. It's done other than this. I
4 understand the Court's pressure, but they spent days on
5 Mrs. McCabe. I received the text messages they were going
6 to introduce this morning. I've been working throughout
7 court and the lunch to try to put this together, and it's
8 not an orderly fashion because I just haven't had the time
9 because I just received them today.

10 THE COURT: All right. So there are messages that are
11 in a Cellebrite report.

12 MR. BRENNAN: Yes.

13 THE COURT: And everybody's had this Cellebrite report?

14 MR. BRENNAN: Everybody's had the report.

15 THE COURT: Do you need to go through them with Ms.
16 McCabe?

17 MR. BRENNAN: Well, I think I do because I want her to
18 explain in context the text messages that they put
19 selectively on the screen. When they put them on the
20 screen, some were left out before, after, during, and so it
21 really was a select presentation. And if I had time, I
22 would have made this a lot more on point, but I didn't have
23 the time to do that.

24 MR. JACKSON: Your Honor, they've had -- the
25 Commonwealth has had those exact text messages since the

1 trial of last year. We put the exact, same text messages
2 in front of this witness last year, and asked the same
3 questions. The text message -- first of all, I don't
4 believe -- I don't want to get out over my skis, but I
5 think Ms. Little will back this up. I don't believe we
6 have this document.

7 Second, a quick brief look at the pink highlights, and
8 Mr. Brennan was very generous and gave us his notebook to
9 look at what he's going to be utilizing, it looks like text
10 messages between this witness and (C), and this witness
11 Kerry Roberts, none of which I put into evidence. The text
12 messages that we did provide, clearly, they're not every
13 text message between the group chat -- the group chat
14 and/or Nicole, obviously. I mean, the first text was about
15 Tom Brady retiring, but they were not select and cherry
16 picked. They were in order in the way that they were
17 texted back and forth for the dates that were in question.
18 This is completely improper in terms of trying to get her
19 state of mind in as it relates to those text messages. If
20 he has something before or after --

21 THE COURT: Why do you need the (C)? Why do you
22 need the (C)? Why do you need the (C) and Kerry
23 Roberts?

24 MR. BRENNAN: The reason they selected the text
25 messages in the way they did is they're trying to suggest

1 that she's a leader in a conspiracy. That's the only
2 reason I introduced them.

3 THE COURT: Okay.

4 MR. BRENNAN: And when you understand what she was
5 going through, you will better appreciate the text messages
6 that they introduced and her state of mind. For example,
7 they tried to suggest there's a conspiracy between Kerry
8 Roberts and this witness, and that's why they do timelines,
9 and that's why they met at certain spots. When you read
10 these, "Every time I close my eyes, it's all I see. I feel
11 like I'm going to vomit. I just can't even."

12 THE COURT: Okay.

13 MR. BRENNAN: I mean, this tells the story.

14 THE COURT: That's admissible.

15 MR. BRENNAN: On how they're -- there's tons of these,
16 though. "I can't stop seeing him in the snow."

17 THE COURT: What's the date and time?

18 MR. BRENNAN: "Jen, this is awful." These are all in
19 the same timeframe. These are January 29, January 29, a
20 number of them from February 1. These are on from January
21 29, January 29, all the stuff with her sister all January
22 29, and I tried to minimize it the best I could. This one
23 is January 31. And these are January 31. And so the
24 reason they made these decisions -- for example, they were
25 worried about talking to each other about information

1 because the press was all over the Albert front yard, and
2 people were saying the press is there, the stories are
3 coming out.

4 THE COURT: Okay.

5 MR. BRENNAN: I mean, I don't want to belabor this,
6 but.

7 THE COURT: I'm going to allow it, but you say you've
8 never seen these texts?

9 MS. LITTLE: I just don't have this copy that they've
10 given us in terms of --

11 THE COURT: But you've had the extraction of Ms.
12 McCabe's phone for a few years, right?

13 MS. LITTLE: Well, I just have two minutes to look at
14 what they're propounding to produce for this purpose.

15 THE COURT: You have the text messages around the same
16 time, right?

17 MS. LITTLE: I just got it two minutes ago from Mr.
18 Brennan.

19 MR. JACKSON: The answer is we don't know. We don't
20 recognize this document, this particular extraction, but
21 that doesn't mean we don't have them, and I'm not
22 suggesting, Mr. Brennan, that we don't have them. I just
23 don't know that we recognize this particular document.

24 THE COURT: All right. So we don't have to have the
25 document. We have the extraction of the phone and we know

1 what messages were on the phone. Your experts dealt with
2 messages that are on the phone, right? Yes.

3 MR. JACKSON: Correct.

4 THE COURT: So start on the 29th and see where we go.

5 MR. JACKSON: Your Honor, my objection is still if
6 there was context under the rule of completeness, if there
7 was context with the group, same group chat, that would be
8 one thing. These are not. These are specifically text
9 message of (c) . She's a 12-year-old. Of course they're
10 going to be different in context.

11 THE COURT: So your objection is on the record. Get
12 started, Mr. Brennan.

13 MR. BRENNAN: I have a copy. Can I leave it with the
14 witness to make this go more quickly?

15 THE COURT: Yes.

16 MR. JACKSON: One other thing. The defense is asking
17 for a specific instruction that this is not offered for the
18 truth of the matter asserted.

19 THE COURT: I'm going to give the same instruction I
20 gave on those.

21 MR. JACKSON: Before he --

22 THE COURT: Yes.

23 MR. JACKSON: Before he reads them. Okay. Thank you.
24 end of sidebar.)

1 THE COURT: All right. Jurors, you are about to hear
2 some evidence, and remember I told you this morning before
3 you can consider any electronic communication in your
4 deliberations, you must first find it is more likely true
5 than not that the person who authored or created or sent,
6 transmitted this communication was in fact the person
7 alleged to have done so. If you do not find it is more
8 likely true than not that the person alleged to have
9 transmitted, created these messages, then you may not
10 consider the electronic communication in deciding this
11 case.

12 And remember, what you're about to hear, you're not to
13 use for the truth of the statement. It goes simply to the
14 state of mind of Ms. McCabe at the time of the message.

15 Go ahead, Mr. Brennan.

16 MR. JACKSON: Thank you. May I approach with a copy
17 for the witness?

18 THE COURT: Yes.

19 Q When law enforcement asks for your phone, was there any
20 requirement that you give that to them?

21 MR. JACKSON: Objection.

22 THE COURT: Sustained.

23 Q Did you voluntarily consent to give your enter phone to
24 law enforcement?

25 MR. JACKSON: Objection.

1 THE COURT: I'll allow that.

2 A Yes, I did.

3 Q I hand you a document that reflects your text messages
4 from that morning and the next day. You were asked about
5 some of them on the screen, do you remember that?

6 A Yes.

7 Q And you were asked how that affected your state of mind
8 and the decisions you were making, correct?

9 I want to read along and I'll indicate if you look at
10 the number on the left, and then I'll read it and you let
11 me know if I read it accurately.

12 A Okay.

13 Q Starting at number 17, there's a phone call saying,
14 "Please answer." Who are you calling?

15 A I'm sorry --

16 MR. JACKSON: May I approach?

17 THE COURT: Yes.

18 Q This would be the number, this would be the calling,
19 and this would be the message.

20 A Okay. So that's John O'Keefe. Sorry.

21 Q Number 17, the phone call, "Please answer." Who are
22 you calling?

23 A John O'Keefe.

24 Q Do you know at that point where he is?

25 A No.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-184

1 Q 4:59:49, number 18, "Karen is worried. We need to find
2 you."

3 A John O'Keefe.

4 Q 5:0:4:40, number 19, "Please answer so I know you're
5 okay." Who are you calling?

6 A John O'Keefe.

7 Q Number 26, 5:15:41, 129. "Okay. I'm trying to call
8 people. I'll be in touch soon." Do you know who you're
9 calling?

10 A I don't recognize the number.

11 Q What are you thinking at this point?

12 A I'm trying to find people. I'm trying to call people
13 so that I can try and find John.

14 Q Number 31, 5:22:57, 129. "Okay. I tried to be. Okay.
15 I just talked to her." What are you are referring to?

16 A I don't know whose number this is.

17 Q Okay. At this point in the morning when you were making
18 these phone calls, do you know where John is?

19 A No, I have no idea where he is.

20 Q Turn to number 48, 1/29/22 at 8:44, you're texting,
21 "Any update?" What is your state of mind?

22 A Which number is this?

23 Q Number 48.

24 A Forty-eight. I believe that maybe Kerry Roberts, and
25 I'm trying to get an update from the hospital.

1 Q You were asked about your relationship with Kerry
2 Roberts. At that time before that night, how many times
3 had you met her?

4 A Once.

5 Q And you said in the moment, did that relationship
6 change?

7 A Yes, instantly.

8 Q Was it from collusion?

9 A No.

10 Q Let me ask you, number 160, this is 1/29 at 2:00 in
11 that afternoon, is that 160?

12 A Sorry.

13 Q It's okay. One-sixty, do you see that?

14 A Mm-hmm.

15 Q "I can't stop seeing him in the snow. Jen, this is
16 awful." Who is that from?

17 A Kerry.

18 Q Is your state of mind collusion?

19 A No.

20 MR. JACKSON: Objection.

21 THE COURT: I'll allow it. Don't ask again, please,
22 Mr. Brennan.

23 Q One sixty-eight at 1/29/22 at 2:04:32, you're calling
24 Ms. Roberts. "Every time I close my eyes, it's all I see.
25 I feel like I'm going to vomit. I just can't even. I know

1 how close you two were. I can't imagine how hard the
2 situation is for you."

3 Does this reflect your state of mind that day?

4 MR. JACKSON: Objection.

5 THE COURT: I'll allow it.

6 MR. JACKSON: Your Honor, we have to approach for a
7 second.

8 THE COURT: Your objection is noted. Next question.

9 MR. JACKSON: Your Honor, we need to approach on this
10 particular text.

11 THE COURT: Come to sidebar. Folks, I apologize for
12 this.

13 (Sidebar commences:

14 THE COURT: I need to see the text. I need to see the
15 text. What text is it?

16 MR. BRENNAN: To Kerry.

17 MR. JACKSON: The text is from Kerry.

18 MR. BRENNAN: What's that?

19 MR. JACKSON: It's from Kerry. It's authored by Kerry.

20 MR. BRENNAN: Okay. My mistake, I'll fix it.

21 MS. LITTLE: It's the last two.

22 MR. JACKSON: The last two texts were from Kerry. I
23 objected; it was overruled. It happened again.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-187

1 MR. BRENNAN: I will fix it. I had it to Kerry, my
2 mistake. It's from Kerry. It says outgoing. It says
3 outgoing. It's not --

4 THE COURT: Which number is this?

5 MR. BRENNAN: This is the one that they objected to.

6 THE COURT: Which number is Jen McCabe's?

7 MR. BRENNAN: Do you know which number Jen McCabe's is?

8 MS. LITTLE: It's right here --

9 MR. JACKSON: Oh-one-four-two.

10 MS. LITTLE: No, from --

11 THE COURT: So it is from Jen McCabe.

12 MS. LITTLE: No, from Kerry.

13 THE COURT: Show it to her and ask who those numbers
14 are.

15 MR. BRENNAN: Okay. Thank you.

16 end of sidebar.)

17 MR. BRENNAN: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q This number, I won't read it, this number on top, who's
20 number is that?

21 A That's mine.

22 Q And the bottom number is who it's going to?

23 A Yes.

24 Q So this text message, is this what you wrote?

25 A Yes, it is.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-188

1 Q To Kerry?

2 A Yes, it is.

3 Q Okay. I won't read that last text message again;
4 however, it is correct that test message was from you to
5 Ms. Roberts, number 168?

6 A Yes, it was.

7 Q And in response, in this text message number 169, from
8 Ms. Roberts to you, "You were also. This is awful, Jen.
9 I'm in shock."

10 A Yes.

11 Q Number 170, this one is from Ms. Roberts to you.
12 1/29/22 at 2:05:45. "I literally am having wine. I don't
13 know what to do to calm down"?

14 A Yes.

15 Q One seventy-one at 2:06:35 on 1/29/22 from you to Ms.
16 Roberts. "I know. I am definitely in shock. It keeps
17 hitting me. I just feel so sick." Is that accurate?

18 A Yes.

19 Q I'm going to read one more. One seventy-two, and this
20 is from Ms. Roberts to you at 2:13:41 on 1/29/22. "I don't
21 know what to even do. I'm so sorry for both of us." Is
22 that accurate?

23 A Yes.

24 Q Number 175. Again to Ms. Roberts, 2:14:15, 1/29/22,
25 you text, "I talked to Peggy. I'm devastated for them"?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-189

1 A Yes.

2 Q And did you follow up seconds later at 2:14:56 on
3 1/29/22, I am so sick to my stomach"?

4 A Yes.

5 Q That day, did you have to speak to children about what
6 happened?

7 A I did, yes.

8 Q Was that part of your state of mind that day?

9 A Yes.

10 MR. JACKSON: Objection.

11 THE COURT: I'll allow that.

12 Q Number 208 or 207. Do you see the text from this
13 number, I don't want to say it out loud, but if you could
14 read it, 207, do you know who that is from?

15 A I don't.

16 Q Okay. We'll move to the next one then. Two-zero-eight,
17 1/29/22, 3:42:06, "I've never felt so sick," is that
18 accurate?

19 A Yes.

20 Q Number 210, 4:33:40, 1/29/22, are you text messaging
21 somebody?

22 A Yes.

23 Q Do you know who that is?

24 A I don't just off of the number.

25 Q And this text message, was this from you to somebody?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-190

1 A Yes.

2 Q "My mind is racing. I have that awful feeling like

3 I -- "

4 MR. JACKSON: Objection.

5 THE COURT: I'll allow it. It's sent by this witness,
6 allegedly.

7 A "My mind is racing. I have that awful feeling in my
8 gut like I'm about to puke. Besides seeing the awful
9 image, trying to wrap my head around what happened to him."
10 Is that accurate?

11 A Yes.

12 Q Two-thirteen, this is on 1/29/22 at 4:38:20. Do you
13 know who is texting you?

14 A Yes.

15 Q Who?

16 A My friend.

17 Q "Once things settle, you need to talk to someone and
18 process the trauma," and at 2:14 you respond 1/29/22, at
19 4:40:38, "I have been shaking since this a.m. I feel so
20 sick. Everything's starting to be a blur and all running
21 into each other"?

22 A Yes.

23 Q And this is at 4:40:38 at 1/29/22?

24 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-191

1 Q And during that day, you spoke with the law
2 enforcement?

3 A Yes.

4 Q And the other days that follow?

5 A Yes.

6 Q I'm going to move to 1/29/22, 7:52. If you look at
7 number 289, please.

8 A Okay.

9 Q At 289, is this a text from your sister Nicole?

10 A Yes.

11 Q "Any update," is that accurate?

12 A Yes.

13 Q And you were shown this text at 292?

14 A Yes.

15 Q And you texted your sister, "Kerry talked to cops and
16 kept it simple"?

17 A Yes.

18 Q What did you mean by that?

19 A I mean the cops had gone to her house, but she had a
20 long day and had been drinking some wine so she said she
21 just made it quick.

22 Q And you were sharing that with your sister?

23 A Yes.

24 Q And was your sister part of many of these texts as part
25 of your support group?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-192

1 A Yes.

2 Q Did anybody tell you that you shouldn't rely on your
3 family and have a conversation about what you went through?

4 MR. JACKSON: Objection.

5 THE COURT: I'll allow that.

6 A No, no one did.

7 Q During that text time, the one I just read to you, was
8 at 7:54:38.

9 Just turn to 296 1/29/22 at 7:56:50. Did your sister
10 text you, "Okay. Try to get some sleep. Talk tomorrow"?

11 A Yes.

12 Q And did you text back at 7:57, "Yes, but don't feel
13 pressure"?

14 A Yes.

15 Q And then the next one 298 at 7:07, was your sister
16 asking you for any updates?

17 A Yes.

18 Q And at 7:57:13, did she text you, "I love you. Don't
19 beat yourself up. You did the best you could"?

20 A Yes.

21 Q And just a few minutes later, at number 308, please,
22 1/29/22 at 8:01 p.m., did your sister again write to you.
23 "Okay. Text me in the a.m. if you hear anything later"?

24 A Yes.

25 Q And you continued texting with her?

1 A Yes.

2 Q You were asked about a timeline?

3 A Yes.

4 Q Can you turn to number 761, please?

5 A 761?

6 Q 761, please.

7 A What page is that on?

8 Q 248.

9 A I'm missing page 248.

10 Q You don't have it to page 248?

11 A No, it stops at 212 and picks up at 253.

12 MR. BRENNAN: May I stand with the witness, Your Honor?

13 THE COURT: Yes.

14 Q Could you remind us who asked you to put together a
15 timeline?

16 A Peggy.

17 Q Peggy O'Keefe?

18 A Yes.

19 Q Two days later, January 31, 2022, and this is at
20 10:26:29 a.m., are you texting Ms. Roberts?

21 A I am.

22 Q "I have spent the a.m. trying to process that he is
23 really gone and try to piece together all the events." Was
24 that part of a process of the timeline?

25 A Yes.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-194

1 Q At some point on the 31st, was something happening
2 around Fairview Road that you learned?

3 A I believe there was a police presence.

4 Q Was there any presence from the media, the press?

5 A Oh, yes, there was.

6 Q Was that causing any concern?

7 A I believe I talked to Peggy and she was --

8 MR. JACKSON: Objection.

9 THE COURT: Sustained.

10 Q And so on January 31, 2022, we're at number 864, you
11 were receiving information. Do you know who this number is
12 that's calling you?

13 A That's my sister.

14 Q Which one?

15 A Nicole.

16 Q And she's texting you, "News people came by and knocked
17 on the door again. They're all leaving now. Peggy and
18 them left about 15 minutes ago."

19 A Yes.

20 Q And then at 1 o'clock, 18 seconds on 13222(sic), you
21 text back, "Did you answer the door"?

22 A Correct.

23 Q Was this part of your state of mind on the 31st, what
24 was going around the house?

25 A Yes.

1 Q Just a few more.

2 In trying to recount for people who asked you that
3 morning and over the next couple of days, some of what's
4 reflected in those text messages, was that part of your
5 state of mind?

6 A Yes.

7 Q Was it in any way affecting the way you were
8 remembering and thinking about what had happened?

9 MR. JACKSON: Objection.

10 THE COURT: I'll allow it.

11 A Yes.

12 MR. BRENNAN: Your Honor, subject to redactions, so I
13 would seek to introduce all of Ms. McCabe's text messages.

14 THE COURT: So we'll deal with that later. Is there an
15 objection?

16 MR. JACKSON: There is.

17 THE COURT: We'll deal with that later.

18 MR. BRENNAN: Thank you. I have no further questions.

19 **RECROSS-EXAMINATION**

20 **BY MR. JACKSON:**

21 Q Ms. McCabe, a couple of follow-up questions.

22 You indicated on redirect examination that there were
23 no sirens that you heard that morning with the approach of
24 the first responders; is that right?

25 A I don't believe there was.

1 Q But they did have their lights on?

2 A I saw a spotlight, yes, and I do believe they had
3 lights on, yes.

4 Q Flashing red and blue lights or blue lights or red
5 lights, some combination thereof, correct?

6 A Correct.

7 Q That was cruisers, police cruisers, correct?

8 A Yes.

9 Q There were -- pardon me -- there were fire SUVs -- in
10 other words, a captain of a fire department?

11 A Possibly.

12 Q There were fire trucks and fire engines. Do you know
13 the difference?

14 A No.

15 Q Fire engine, the big one with the ladder on it?

16 A Yes.

17 Q There was an ambulance, correct?

18 A Yes.

19 Q And all of them had their emergency lights on?

20 A Most likely, yes.

21 Q All of them had their motors running?

22 A I'm not sure if they were all running. They could have
23 been, yes.

24 Q Certainly, you would agree that there was a cacophony
25 of diesel engines and gasoline engines and internal

1 combustion engines that were running right outside of 34
2 Fairview, although they were silenced, correct?

3 A I wouldn't exactly say right outside of 34 Fairview.
4 I'd say there was some right outside 30 Fairview -- 34
5 Fairview. The first vehicle pulled up kind of right --
6 just on the right end, and most of the vehicles with the
7 lights on were to the left. So there were actually more in
8 front of 32 Fairview, but there were vehicles. There was
9 Ms. Roberts' vehicle, and then I believe another vehicle
10 pulled up I think I remember from seeing the dash cam.

11 Q And Saraf's cruiser, correct?

12 A Yes.

13 Q And Mullaney's cruiser just on the other side of Kerry
14 Roberts' vehicle, correct?

15 A Yes, I don't believe lights were on -- his lights were
16 on.

17 Q And there was an ambulance just to the left of -- to
18 the left and behind Saraf's vehicle, correct?

19 A Yes, which would've been in front of 32 Fairview.

20 Q Lights on that as well?

21 A Yes.

22 Q All facing in the direction of 34 Fairview, correct?

23 A Facing, but out front of 32.

1 Q So is there a reason why you are so resistant to admit
2 that there was a cacophony of sound and noise outside of 34
3 Fairview?

4 A No.

5 Q Okay. So there was, correct?

6 A Outside of the front lawn, yes.

7 Q And there was also some people yelling and screaming at
8 a high-pitch, right?

9 A Yes.

10 Q Both Ms. Read, who was yelling and screaming, correct?

11 A Correct.

12 Q And Ms. Roberts who at least at some point told her to
13 shut the fuck up, correct?

14 A Correct.

15 Q You were asked about the stop at 34 Fairview on the way
16 to Sergeant Lank's house on redirect examination by Mr.
17 Brennan just now, correct?

18 A I was, yes.

19 Q He showed you a couple of pages of your transcript from
20 that question-and-answer, correct?

21 A I believe he showed me a page, yes.

22 Q And you noted that this was from -- this was a
23 question-and-answer from a hearing last year in this
24 courtroom?

25 A Yes.

1 Q And you admitted that you stopped -- actually, let me
2 rephrase that.

3 You were confronted with the fact that you stopped at
4 34 Fairview on the way to Officer Lank's house -- Sergeant
5 Lank's house by me on cross-examination, correct?

6 A Yes, you asked me.

7 Q You also indicated that you have never refused to speak
8 to the police, any law enforcement officer in this case,
9 correct?

10 A I've spoken when asked to, yes.

11 Q But in point of fact, when you were approached by the
12 two law enforcement agents who were not connected to
13 Massachusetts State Police or to Canton PD, you suspended
14 that interview and refused to answer further questions,
15 correct?

16 A I welcomed them into my house --

17 Q And then --

18 A And then I stopped and then I met with them a few times
19 after, and I answered all their questions that they asked.
20 I helped clear up some misconceptions that they had been
21 told, and as you know, I know they're no longer
22 investigating. So I think I helped them out.

23 Q And you're obviously well aware that in that first
24 interview, you stopped the interview cold and refused to
25 answer further questions, correct?

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-200

1 A I said I'm going to stop, and I'm going to seek some
2 counsel, yes.

3 Q The text messages, you just read a series of text
4 messages that Mr. Brennan actually read for you and you
5 agreed with, correct?

6 A Correct.

7 Q Were any of the text messages that you just read in the
8 group chat that I showed you in cross-examination?

9 A I don't believe so. I don't believe so, but I --

10 Q And that group chat included you, Brian Albert, Nicole
11 Albert, Matt McCabe, correct?

12 A Correct.

13 Q And that was a private chat among the four of you; is
14 that right?

15 A That's just a chat with them, yes.

16 Q You read some text messages to and from Kerry Roberts,
17 correct?

18 A Yes.

19 Q You had just met Kerry Roberts; isn't that right?

20 A Yes.

21 Q She's not a McCabe; is that right?

22 A Correct.

23 Q She's not an Albert, correct?

24 A Correct.

1 Q You even read some text messages with your minor
2 children, correct?

3 A Just now?

4 Q Yeah.

5 A I don't believe any were with my children.

6 Q Mr. Brennan asked you about a couple of text messages
7 or at least one text message with your children, didn't he?

8 A No, he didn't.

9 MR. BRENNAN: Objection.

10 THE COURT: She can answer that question. Is that what
11 happened?

12 Q Did I misunderstand?

13 A No, I honestly didn't read anything from my children.
14 I think one I said a friend, another time I didn't know who
15 it was, but I do know my children's phone numbers, and, no,
16 that was not my kids.

17 Q Obviously, the kids are not on that group chat -- that
18 private group chat that we went over, correct?

19 A Oh, yes, correct, they're not.

20 Q Well, let's talk about those unidentified numbers. You
21 said this is a number I don't recognize, and Mr. Brennan
22 read to you a text to that person, correct?

23 A Yes.

24 Q Whoever that is, that person is not a McCabe, correct?

25 A They're not, correct.

1 Q And that person's not an Albert?

2 A They could be. Again, it could've been Chris Albert or
3 Julie. I don't -- one of the numbers I didn't recognize
4 because I don't -- I have everybody in my phone with their
5 name so I don't recognize every number.

6 Q And that person certainly was not in that group chat
7 with you, Brian Albert, Nicole Albert, and Matt McCabe?

8 A Correct.

9 Q And then there was a friend. You said this is a
10 friend, and I don't need you to identify the friend, but
11 whoever this unidentified friend is, that friend is not
12 McCabe and is not an Albert, correct?

13 A Correct.

14 Q And that friend was also not in that group chat that we
15 went over in cross-examination; is that right?

16 A Correct.

17 Q These are all people outside of that group among whom
18 you engaged in the chat that we saw, correct?

19 A Correct.

20 Q And that includes Kerry Roberts. She was not included
21 in that group chat where you talked about the case and
22 talked about what she was and wasn't doing with law
23 enforcement, right?

24 A Correct. It was just my sister and my brother-in-law
25 and husband.

Testimony of Jen McCabe

5/2/25

Cw. v. Read

1-203

1 MR. JACKSON: May I have just a moment, Your Honor?

2 THE COURT: Okay.

3 MR. JACKSON: Your Honor, that's all I have.

4 THE COURT: Ms. McCabe, you are all set. Thank you
5 very much.

6 (End of testimony at 2:57 p.m.)

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C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER
AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES
TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF
THIS ACTION.

Christine D. Blankenship, June 7, 2025

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A Able - 31:12, 36:23, 64:6, 133:18, 160:1, 160:11 Above - 49:22, 52:4, 55:1 Accidentally - 112:14 According - 83:23, 88:18, 88:21, 88:23, 90:2, 90:3, 108:3, 109:8, 109:17, 111:2, 111:3, 154:22, 174:5, 174:20 Accumulated - 165:24 Accuracy - 93:11 Accurate - 93:13, 188:17, 188:22, 189:18, 190:10, 191:11 Accurately - 183:11 Acknowledge - 18:5, 19:14 Across - 19:8, 47:25, 48:2, 167:5, 167:6, 167:11 Acts - 160:6 Actual - 67:13 Add - 31:12, 163:12 Addition - 34:9, 117:13 Address - 75:16, 76:13, 76:15, 78:5, 79:9, 80:21, 81:12, 81:14, 81:22, 81:24, 82:3, 82:4, 89:6, 89:9, 89:18, 89:23, 166:25, 174:23 Adjoining - 48:3 Adjust - 22:13 Admissible - 31:17, 32:9, 105:2, 179:14 Admit - 30:22, 87:20, 198:1 Admitted - 32:10, 33:8, 76:3, 199:1 Adopted - 11:10, 11:22, 12:3, 12:5 Affected - 183:7 Affecting - 195:7 Aftermath - 137:15, 137:17 Afternoon - 73:2, 98:19, 162:9, 165:14, 165:15,	185:11 Against - 34:19 Agents - 199:12 Aggressively - 104:13 Agree - 11:23, 32:9, 110:2, 128:6, 129:8, 129:10, 129:14, 149:18, 163:21, 196:24 Agreed - 200:5 Ahead - 14:11, 73:22, 90:23, 113:19, 113:25, 126:17, 127:13, 142:24, 143:6, 143:15, 145:9, 146:5, 147:11, 157:16, 182:15 Aid - 167:18 Albert's - 17:20, 44:21 Alert - 19:19 ALESSI - 126:15, 126:20, 126:23, 127:2 Alleged - 38:4, 38:10, 182:7, 182:8 Allegedly - 38:5, 190:6 Alternative - 158:17 Altogether - 87:1 Ambulance - 166:17, 196:17, 197:17 Among - 32:14, 44:19, 45:2, 62:10, 63:21, 64:5, 141:21, 145:13, 146:10, 147:17, 200:13, 202:17 And/Or - 178:14 Angle - 152:23 Announcing - 76:13 Anticipate - 91:14 Anxious - 167:23, 170:15 Anymore - 62:12 Anyone's - 156:13 Anyway - 34:2, 39:6, 151:19 Anyways - 162:25 Anywhere - 95:8, 135:9 Apologies - 22:7, 162:12	Apologize - 29:11, 46:7, 106:18, 106:23, 115:25, 138:13, 138:20, 165:5, 186:11 Apology - 138:12 App - 112:16, 112:17, 113:4, 113:5, 115:7, 115:8, 116:15, 116:16, 116:20, 116:22, 117:5, 119:18, 119:21, 120:2 Appear - 39:13, 44:19, 45:1, 46:12, 80:4, 104:12, 143:9, 143:23, 144:4, 144:10, 144:15, 145:13 Appeared - 146:10 Appears - 74:5, 111:9, 124:23, 124:24, 143:3 Apple - 170:11 Application - 119:7, 119:11 Appreciate - 90:21, 95:19, 104:6, 123:3, 179:5 Approached - 139:20, 140:2, 199:11 Approximately - 23:24, 96:11, 118:16 Apps - 113:8 April - 13:7, 100:1, 100:8 Area - 82:15, 85:24 Aren't - 155:8 Argue - 34:18, 160:10 Argument - 35:8, 104:9, 104:11, 160:20, 161:1, 162:4 Argumentative - 63:12, 63:13 Arrive - 166:13 Arrived - 58:2, 88:19, 89:5, 89:11, 89:17, 90:1, 152:14, 165:17, 165:20, 166:10, 166:12, 169:6 Asleep - 155:11, 155:13, 155:14 Asserted - 31:21, 181:18	Assist - 167:15 Assistance - 95:20, 167:9 Assisting - 142:2 Attempt - 13:22 Attempted - 12:24, 15:17, 171:19 Attended - 153:14 Attending - 143:10 Attention - 3:13, 5:7, 34:17, 36:20, 63:6, 110:21, 114:2, 140:19, 148:21, 149:17, 162:3 Attorney - 132:24, 173:14 Attributable - 135:3 Attribute - 110:8, 160:6 Audio - 135:11, 140:19 August - 100:1 Authored - 38:3, 182:5, 186:19 Ave - 68:24, 71:4 Avoid - 169:11 Avoiding - 172:14 Awful - 179:18, 185:16, 188:8, 190:2, 190:7, 190:8 B Backed - 24:1, 73:4 Background - 103:9 Backing - 119:10 Backstreet - 32:25 Backup - 137:24 Based - 14:8, 14:12, 14:14, 22:16, 64:18, 88:9 Basis - 11:8, 63:7 Basketball - 31:10, 61:2, 61:5, 120:7, 120:23 Bates - 43:20 Bathroom - 72:18 Beat - 192:19 Beatty - 9:12, 9:13, 9:15, 9:16, 15:22, 15:23, 16:14, 17:5, 17:8, 18:11 Become - 62:5, 135:1 Becomes - 159:6 Bed - 170:20, 171:4	Began - 101:3, 119:5 Behind - 85:10, 146:21, 197:18 Belabor - 180:5 Belt - 152:10 Bene - 76:19 Big - 37:8, 196:15 Bill - 91:10 Biometric - 112:4, 112:9 Bit - 4:15, 10:22, 14:18, 23:23, 89:22, 160:11 Bits - 60:9 Black - 137:7, 142:18 Blankets - 153:10, 153:12, 154:11 Blast - 83:9 Blizzard - 82:19, 82:25 Blue - 40:25, 41:8, 41:14, 196:4 Blur - 71:3, 190:20 Board - 127:11 Book - 58:23, 59:11, 61:11, 65:5 Bookend - 45:3 Boston - 82:14, 82:15, 150:13 Both - 15:24, 46:9, 59:13, 61:19, 61:23, 66:5, 70:7, 91:12, 117:14, 130:16, 130:20, 188:21, 198:10 Bottom - 40:8, 43:3, 43:20, 107:21, 113:8, 187:22 Box - 30:6, 50:12, 78:8 Boy - 126:22 Boyfriend - 140:7, 141:10 Brady - 178:15 Break - 34:7, 90:6, 90:19, 105:15, 154:23, 162:10 Brennan's - 95:20 Brevity's - 99:25 Brewing - 82:25 Brief - 123:9, 176:22, 178:7 Bright - 125:5, 125:6
---	--	---	---	---

Broken - 22:25, 25:5, 27:5 Brother - 65:11, 152:11, 153:5, 166:20, 202:24 Brought - 32:24 Browser - 119:13, 119:16 Bubble - 39:7, 39:17, 40:25, 41:8, 41:14, 56:1 Bubbles - 30:11, 41:14 Burned - 18:12 Butt - 110:16, 110:17, 110:19, 110:21, 111:9, 111:25 Button - 117:6, 117:21	83:23, 83:24, 85:1, 85:15, 87:12, 142:19, 166:1 Care - 31:9, 63:5, 133:14 Cars - 166:17 Case - 38:12, 64:6, 64:15, 65:19, 101:10, 135:9, 137:12, 137:14, 137:16, 156:11, 159:25, 161:7, 169:21, 182:11, 199:8, 202:21 Catch - 29:9 Causing - 194:6 Cedarcrest - 151:23 Cell - 19:15, 153:20 Cellebrite - 74:23, 74:24, 123:13, 125:9, 126:4, 128:1, 139:1, 177:11, 177:13 Centerpiece - 160:8 Certain - 31:7, 70:18, 88:6, 88:7, 88:11, 175:1, 179:9 Certainly - 62:14, 66:2, 99:20, 120:14, 131:9, 155:9, 196:24, 202:6 Cetera - 166:7 CF - 48:1, 48:3 Chain - 57:16 Chalk - 75:24 Challenge - 14:18 Chance - 163:19 Change - 66:12, 185:6 Channel - 47:5, 47:9, 47:10, 47:16, 49:6, 51:16, 51:25 Chaos - 155:25 Chaotic - 18:10 Chapman - 151:22 Characterization - 133:1 Characterizing - 10 3:10, 132:25 Charge - 33:3, 141:16, 141:21, 144:7 Chats - 28:4, 29:19, 30:1 Chatting - 62:9 Check - 126:24,	127:4, 155:20 Checking - 126:20 Cherry - 178:15 Chest - 153:24 Child - 84:24 Children - 189:5, 201:2, 201:5, 201:7, 201:13 Children's - 201:15 Choose - 116:23 Chris - 44:20, 44:21, 47:18, 48:15, 49:2, 49:5, 49:13, 50:1, 202:2 Chrissy - 161:24 Chronological - 10 7:5 Chronologically - 6 6:2 Circles - 75:12, 75:13, 76:5 Circumstances - 32 :19 Claim - 129:18 Claiming - 129:22 Claims - 103:25 Clarify - 158:13 Classic - 104:1 Cleared - 19:23 Clearer - 12:1 Clinging - 149:4, 153:1, 153:23, 154:17 Clip - 142:5, 145:13, 146:7, 146:8, 146:11, 147:3, 147:14, 157:24, 158:4, 158:5, 158:18, 159:1, 159:2, 164:1, 164:2, 164:21 Clips - 142:6, 157:18, 158:6, 158:17 Clock - 70:13 Close - 5:7, 117:6, 179:10, 185:24, 186:1 Closer - 82:12, 162:5 Closing - 160:20 Coat - 142:18 Coco - 30:7, 40:2, 41:23 Code - 22:12, 112:10	Cold - 82:23, 83:2, 83:22, 125:12, 128:8, 128:19, 129:3, 129:16, 129:19, 129:20, 138:8, 153:23, 171:10, 199:24 Cold' - 125:21 Colloquy - 5:1 Colluding - 62:20, 63:14, 63:20, 64:8, 64:14 Collusion - 64:5, 185:8, 185:18 Column - 107:13, 124:23, 125:6, 127:9 Combination - 196: 5 Combustion - 197: 1 Comes - 150:22, 163:13 Comfort - 172:12 Comfortable - 104: 3 Coming - 19:8, 31:12, 31:13, 31:18, 34:14, 35:21, 95:17, 96:2, 104:14, 113:23, 155:9, 155:10, 155:12, 155:25, 159:2, 163:10, 166:1, 180:3 Comma - 55:14, 55:15 Commences - 3:1, 9:25, 21:23, 30:19, 36:12, 63:2, 74:18, 103:5, 113:22, 123:12, 125:2, 132:15, 159:17, 176:23, 186:13 Comment - 62:23 Commenting - 103: 18 Comments - 63:3, 63:10 Common - 111:24 Commonwealth - 1 3:12, 16:10, 17:1, 74:22, 75:6, 157:8, 158:19, 177:25 Communicate - 12: 24, 13:22, 15:17 Communicated - 7: 13, 7:21, 15:16,	15:20, 16:2, 100:4 Communicating - 9 9:20, 100:7 Communication - 3 8:4, 38:11, 101:7, 182:3, 182:6, 182:10 Communications - 15:25, 28:1, 37:22, 38:1, 38:5, 45:25, 100:1 Compare - 10:8, 136:15 Compared - 11:12, 11:14, 136:13 Complaints - 161:7 Complete - 71:3, 158:16, 175:4 Completely - 31:5, 62:24, 71:2, 72:9, 104:15, 148:1, 178:18 Completeness - 17 3:19, 181:6 Complies - 8:21, 78:1, 78:17, 79:5, 86:19, 92:16 Comports - 109:10, 109:16 Compressions - 15 3:16, 153:24, 154:11 Computer - 75:24 Conceivably - 57:1 8 Concern - 133:12, 156:13, 194:6 Concerned - 133:11 , 133:20, 134:1, 134:9 Concerning - 12:14 , 20:20 Concerns - 161:20 Conclusion - 133:6 Conducted - 75:7 Confer - 28:21 Confront - 103:21 Confronted - 70:18, 111:15, 122:11, 139:7, 199:3 Confronting - 103:2 5, 133:8 Confused - 118:21, 167:23, 173:21 Connected - 199:12 Consent - 182:23 Consider - 37:22, 37:25, 38:6, 38:11,
---	--	---	---	--

C

38:14, 38:15, 182:3, 182:10 Consistent - 10:15, 12:17, 81:5 Consistently - 114:19 Conspiracy - 179:1, 179:7 Consult - 133:18 Contacted - 17:2, 18:19 Contacting - 19:10 Contained - 28:23 Content - 34:9, 60:7, 127:24, 128:7, 157:21, 160:14, 161:18 Context - 30:22, 48:10, 160:7, 160:16, 163:5, 177:18, 181:6, 181:7, 181:10 Continue - 77:23, 91:20, 124:12 Continued - 3:10, 160:7, 192:25 Continuous - 103:15 Contrast - 103:20, 136:15 Contrasted - 136:13 Control - 27:21, 33:4 Controlled - 33:14 Controlling - 33:1, 33:16, 144:11 Conversation - 6:17, 7:24, 9:5, 10:3, 10:5, 10:12, 14:17, 56:18, 60:7, 61:8, 100:21, 143:9, 143:23, 144:16, 192:3 Conversations - 10:20, 29:4, 32:20, 101:4 Coordinate - 28:1 Coordinating - 27:17, 27:20 Cop - 58:15 Cops - 40:17, 57:24, 191:15, 191:19 Copy - 26:15, 26:19, 29:14, 29:17,	30:23, 39:14, 44:11, 102:10, 106:5, 124:17, 157:24, 164:3, 164:6, 164:20, 180:9, 181:13, 182:16 Corner - 40:8 Corroborate - 135:15 Corroborated - 131:10, 131:17 Corroborating - 135:19, 135:22 Couldn't - 144:3, 154:9 Could've - 111:7, 154:6, 172:9, 202:2 Counsel - 4:5, 4:7, 4:14, 10:2, 28:21, 74:16, 90:17, 123:10, 125:1, 126:25, 133:18, 157:6, 157:11, 157:12, 200:2 Count - 138:22 Counted - 148:24, 149:1 (f) Couple - 32:14, 32:15, 44:14, 57:1, 68:6, 88:12, 91:11, 92:19, 124:19, 149:13, 176:16, 176:19, 195:3, 195:21, 198:19, 201:6 Course - 10:19, 23:22, 71:16, 99:19, 110:19, 135:18, 181:9 Courtroom - 198:24 Court's - 38:20, 46:3, 73:5, 104:4, 114:2, 141:3, 142:9, 147:4, 157:22, 177:4 Covers - 96:20 CPR - 149:7, 151:3, 151:9, 151:12, 151:13 Crack - 25:4, 25:9, 26:12, 26:13, 26:23, 27:4, 27:8, 27:12 Cracked - 23:5, 23:12, 25:5, 25:10, 25:25, 26:7, 26:11,	27:4, 156:5 Crafted - 66:9 Create - 10:4, 136:7, 136:14 Created - 38:3, 38:10, 65:25, 66:4, 182:5, 182:9 Creates - 11:18 Creating - 11:15 Credibility - 103:12, 103:19, 103:22, 104:6 Credible - 104:19 Crime - 156:10 Critical - 36:24 Criticizing - 125:17 CROSS - 3:9, 10:18, 10:23, 11:25, 22:13, 22:16, 35:11, 104:2, 104:11, 104:13, 104:17, 106:10, 138:21, 199:5, 200:8, 202:15 Cruiser - 197:11, 197:13 Cruisers - 196:7 Cue - 140:10 Cued - 123:24 Curative - 63:9, 103:14 Cutting - 116:2 D D&E - 47:5, 47:10, 47:16, 47:17, 47:18, 51:16, 51:24 Damage - 27:21 Damaged - 23:8 Danger - 148:11 Dark - 4:22, 6:13, 7:7, 82:17, 82:21, 166:1 Dash - 135:5, 149:15, 149:21, 166:4, 166:5, 168:3, 169:3, 169:4, 197:10 Data - 70:18, 71:10, 71:17, 71:21, 73:20, 74:21, 74:25, 95:16 Dates - 13:15, 46:20, 69:18, 178:17 Daughter - 57:14, 57:15, 68:3, 68:10, 68:13, 68:15, 69:24, 70:3, 71:5, 84:5, 87:22	Daughters - 67:5, 172:4 De - 76:19 Dead - 155:6, 155:24 Deal - 51:3, 151:25, 153:6, 160:24, 195:14, 195:17 Deals - 32:5, 92:14 Dealt - 181:1 Dear - 148:16 Decide - 83:18 Deciding - 38:11, 182:10 Decision - 163:12, 163:15 Decisions - 179:24, 183:8 Declarant - 34:4 Declarants - 31:22 Defendant - 90:17, 157:11, 176:8 Defense - 30:24, 62:15, 71:22, 72:2, 157:20, 158:23, 160:6, 160:8, 163:11, 164:20, 181:16 Definitely - 188:16 Deleted - 125:5, 139:4, 139:7, 139:12, 139:13, 139:16 Deliberately - 103:13 Deliberations - 37:23, 38:1, 182:4 Demanded - 131:11, 131:17, 131:23, 135:15, 136:2 Demanding - 135:9, 135:12 Demonstration - 115:12 Denied - 26:23, 31:16, 87:1, 109:22, 132:4, 132:9, 133:7, 134:7, 134:8, 134:13, 135:2, 160:15 Denies - 6:16 Denise - 136:21 Deny - 105:20, 108:5, 118:10, 134:16, 139:12, 139:14, 139:15	Denying - 26:24, 26:25, 86:12, 87:14, 109:23, 118:12, 123:1 Department - 196:10 Depict - 76:24 Depicted - 28:22, 44:16, 46:9, 143:20, 166:5 Depicts - 77:1 Describe - 24:18, 74:9, 137:3, 142:16, 167:20 Described - 27:7, 58:3, 88:9, 166:20 Describing - 25:23, 26:11 Description - 25:17, 150:3 Destination - 84:8, 84:14 Detective - 174:21 Determined - 139:2 Devastated - 188:25 Developed - 75:25 Dial - 110:16, 110:17, 111:9, 111:21 Dialed - 116:24, 117:1 Dials - 110:19, 110:21, 111:25 Diatribes - 114:21 Dictating - 33:2 Die - 125:11, 125:21, 128:8, 128:18, 129:3, 129:15, 129:19, 129:20, 138:8, 171:9, 171:10 Diesel - 196:25 Difference - 104:10, 196:13 Differently - 25:20, 70:22, 131:13 Difficult - 36:20 Digits - 39:21 Dinner - 31:10 Directed - 21:15, 57:10 Directing - 49:5, 49:7 Direction - 197:22 Directly - 32:5,
---	---	--	---	--

47:23, 48:2, 67:1, 84:3, 86:4, 87:21, 89:24, 145:6 Discern - 36:20 Discussing - 65:18, 65:19, 76:2 Display - 35:16, 76:16 Displayed - 76:10, 123:21, 124:18 Dispute - 157:19, 158:4, 159:6, 163:14, 164:4 Disregard - 62:23, 62:24, 102:21 Distinguish - 142:2 1 Distress - 152:1, 153:7 Divide - 110:4 Documents - 44:17, 72:1, 91:7, 91:13, 92:13, 103:6 Doesn't - 32:9, 32:16, 63:5, 99:19, 99:24, 104:11, 104:22, 111:22, 121:14, 126:5, 160:16, 160:23, 163:21, 180:21 Door - 3:14, 3:15, 5:8, 47:23, 110:12, 154:7, 160:1, 160:5, 161:20, 162:4, 194:17, 194:21 Double - 118:2, 126:20 Dozen - 121:10 Dozens - 113:2, 121:9 Drafted - 21:3 Draw - 3:13, 34:20, 63:6 Dressed - 83:11 Drinking - 191:20 Drive - 23:8, 23:14, 23:16, 23:22, 82:4, 87:8, 87:20, 87:23 Driveway - 24:1 Driving - 22:22, 22:24, 23:12, 81:4, 87:6, 87:8, 141:17, 165:25, 172:21 Drop - 67:4, 68:4, 68:9, 68:13, 68:15, 69:1, 71:4, 84:4,	84:14, 84:17, 84:20, 84:24, 87:21 Dropped - 68:5, 68:25, 69:2, 69:10, 69:23, 69:25, 72:24, 85:1 Dropping - 70:2, 84:11 Drove - 84:7, 85:7, 85:23, 87:4, 87:8, 87:18, 89:13, 89:23, 174:9, 174:14 Due - 81:9 Duration - 92:8 Duty - 150:14 Dying - 148:18, 155:7, 155:24 E Each - 27:25, 63:21, 65:19, 94:7, 136:9, 136:13, 158:17, 169:6, 179:25, 190:21 Earlier - 56:21, 56:22, 59:21, 106:9, 152:18, 157:17 Early - 18:7, 82:17, 106:11, 118:23, 119:24, 141:14, 165:20 Easy - 94:25, 112:21 Eat - 51:2 Eating - 48:15 Editorial - 169:23 Effect - 31:22 Eight - 15:3, 41:7, 43:19, 184:24, 185:23, 189:16 Eighty - 15:3 Electronic - 37:22, 38:1, 38:11, 45:25, 182:3, 182:10 Electronically - 123 :24 Elements - 166:4 Elevated - 171:5 Eleven - 69:13, 69:14 Elizabeth - 102:7, 105:8, 105:10 Else's - 11:11, 169:22 Emergency - 148:8, 148:10, 148:21,	149:6, 150:1, 151:18, 167:18, 196:19 Ending - 45:4 Enforcement - 27:2 2, 28:2, 144:11, 144:16, 144:18, 145:14, 146:11, 147:15, 168:4, 168:7, 168:11, 168:16, 169:21, 182:19, 182:24, 191:2, 199:8, 199:12, 202:23 Engage - 117:8, 119:5, 168:18 Engaged - 45:2, 143:9, 143:23, 145:14, 146:10, 147:14, 202:18 Engaging - 144:16 Engine - 119:15, 119:19, 196:15 Engines - 196:12, 196:25, 197:1 Enlarge - 39:5 Enter - 182:23 Entered - 29:8, 139:21 Entering - 91:14 Entire - 10:5, 32:13, 33:16, 36:24, 72:13, 151:22 Entirely - 10:12 Entitled - 64:2, 64:3, 104:24 Entitlement - 116:4 Envelope - 157:23 Episode - 54:19, 55:7 Equally - 150:22 Errand - 84:13 Error - 102:16 Errors - 50:19 Et - 166:7 Evasive - 169:9 Evening - 35:3, 45:4, 82:7, 89:3, 110:21, 171:6 Events - 12:14, 27:16, 27:18, 136:8, 136:9, 193:23 Eventually - 150:10 Everybody - 202:4 Everybody's - 177: 13, 177:14	Everyone - 150:22 Everything - 33:2, 53:19, 53:20, 54:9, 59:20, 59:22, 60:10, 60:11, 60:20, 65:2, 66:8, 66:9, 66:10, 85:12, 137:17, 153:9, 163:9, 169:10 Everything's - 190: 20 Examine - 104:13 Examining - 126:8 Example - 62:19, 63:20, 68:18, 179:6, 179:24 Except - 72:15 Exclamation - 53:2 0 Excluding - 63:23 Expand - 37:5 Expect - 62:14, 75:9, 75:12, 133:22, 149:12, 163:5 Expedient - 177:2 Expert - 121:3, 121:6, 125:9, 126:4 Experts - 181:1 Explain - 47:8, 116:4, 177:18 Explained - 110:8 Explanation - 109:2 4, 110:11, 114:8, 114:11 Expression - 119:2 0 Extended - 158:16, 161:5, 162:10, 163:17 Extra - 29:14, 29:17 Extracted - 75:4, 75:5 Extraction - 74:25, 75:6, 75:7, 111:5, 111:8, 111:10, 139:2, 180:11, 180:20, 180:25 Eyes - 179:10, 185:24 F Face - 112:10 Facing - 197:22, 197:23 Failed - 28:19 Faint - 72:17, 83:17 Fair - 11:24, 11:25,	12:6, 52:2, 166:9 Fairly - 124:12, 166:5 Fall - 102:3, 165:22 Fallen - 150:20 Falling - 165:21 Familiarize - 8:18 Family - 27:17, 27:20, 27:21, 27:24, 27:25, 28:2, 28:5, 62:12, 87:15, 110:23, 172:6, 175:2, 192:3 Far - 134:17, 144:25, 148:18, 149:3, 167:21 Fashion - 177:8 Fast - 168:1 Fault - 115:3 Fear - 170:21, 170:24 February - 7:18, 37:4, 45:2, 45:7, 46:21, 53:13, 91:3, 96:23, 97:5, 97:14, 97:17, 97:20, 97:23, 99:14, 179:20 Federal - 11:13 Feel - 19:2, 21:22, 36:11, 132:13, 170:14, 179:10, 185:25, 188:17, 190:19, 192:12 Feeling - 167:20, 190:2, 190:7 Feet - 152:20, 154:6 Fellow - 150:20 Felt - 61:11, 153:16, 189:17 Female - 7:20, 140:25, 141:1 Fifteen - 158:18 Fifth - 107:13 Fifty - 106:22 Fights - 54:18, 55:7 Figure - 65:16, 85:12 Final - 3:21 Finally - 81:21, 98:13, 114:2 Find - 31:6, 38:2, 38:7, 38:9, 49:11, 50:1, 63:23, 123:8, 123:9, 182:4, 182:7, 184:1, 184:12, 184:13
--	--	---	---	--

Finding - 142:4 Fine - 31:7, 35:14, 95:6, 95:10, 95:13, 134:6 Finger - 138:9 Finishes - 32:6 Fire - 147:20, 166:17, 196:9, 196:10, 196:12, 196:15 Five - 26:2, 57:1, 106:22, 123:9 Fix - 186:20, 187:1 Flagpole - 3:22 Flashing - 196:4 Flip - 4:19, 44:1 Focus - 152:6, 152:7, 152:16, 156:9, 160:18, 167:21, 169:8 Focused - 154:15 Foggy - 88:6 Folks - 21:18, 186:11 Follow - 54:11, 77:12, 90:10, 189:2, 191:4, 195:21 Following - 27:16, 30:11, 92:5, 99:22, 130:9, 130:12, 165:25 Foreground - 142:14 Forever - 117:23 Forget - 88:11 Forgot - 72:9 Forgotten - 71:2, 88:7, 117:9 Form - 36:18, 92:21, 95:2, 169:13 Formal - 7:18, 7:19, 19:24, 65:20, 99:5, 100:15, 100:18 Formerly - 37:18 Forth - 5:8, 62:9, 110:12, 110:22, 143:11, 178:17 Forty - 31:3, 107:22, 184:24 Fought - 83:22 Found - 127:15, 129:17, 149:14, 156:24, 166:24, 171:18 Foundation - 37:10, 121:11	Foundational - 44:14 Foundationally - 119:10 Four - 26:2, 39:21, 44:24, 65:18, 81:6, 85:13, 89:12, 96:17, 98:14, 98:18, 107:13, 107:22, 117:24, 172:8, 174:7, 187:9, 200:13 Fourteen - 118:2, 118:3 Fraction - 34:20 Frame - 35:24, 101:8, 146:18, 146:20 Frames - 3:20 Frankly - 140:17 Free - 21:22, 36:11, 132:13 Freezing - 83:2, 83:13 Freshest - 23:4 Friday - 159:5, 162:9 Friend - 57:14, 148:14, 148:16, 148:17, 149:25, 150:2, 150:3, 167:24, 190:16, 201:14, 202:9, 202:10, 202:11, 202:14 Friends - 28:3, 28:5 Front - 3:14, 3:15, 13:8, 19:17, 74:2, 122:3, 154:6, 154:18, 155:7, 155:15, 156:1, 156:19, 168:20, 178:2, 180:1, 197:8, 197:19, 197:23, 198:6 Fuck - 198:13 Full - 32:16, 32:21, 34:21, 79:9, 79:10, 83:9, 176:19 Fully - 76:14 Fur - 142:22 Further - 118:14, 195:18, 199:14, 199:25 G Gaffney - 75:8,	76:6, 77:9, 77:10 Galvin - 136:23 Game - 12:6, 61:6, 61:12 Games - 31:10 Gap - 37:8 Gasoline - 196:25 Gave - 126:11, 162:9, 164:3, 178:8, 181:20 Gear - 83:11 Gears - 66:12, 90:7, 91:1 Generally - 74:6, 74:14, 76:16, 77:1, 117:17 Generated - 74:25 Generous - 178:8 Gentleman - 137:6, 149:8 Gentlemen - 102:19, 137:6 Gesticulating - 146:3 Gets - 82:17, 158:19 Girl - 58:23, 59:2 Give - 24:22, 32:3, 33:18, 33:19, 33:22, 35:16, 76:15, 77:20, 79:9, 81:18, 109:24, 150:3, 150:4, 158:16, 163:12, 164:6, 181:19, 182:20, 182:23 Given - 37:7, 63:22, 157:20, 157:24, 163:9, 164:20, 169:22, 180:10 Gives - 34:16, 36:20 Gone - 71:1, 100:10, 191:19, 193:23 Good - 3:2, 3:4, 3:5, 3:11, 3:12, 60:23, 90:5, 165:14, 165:15 Googled - 119:17, 120:15, 121:17, 121:18, 125:21 GPS - 71:9, 71:17, 71:21 Grab - 92:14 Grasping - 149:3 Grave - 148:11 Greater - 82:15 Green - 30:6, 39:17,	41:14, 50:12, 56:1, 125:6 Ground - 167:24 Guarino - 33:21, 37:23 Guess - 34:7, 35:6, 95:6 Guessing - 26:8, 26:9 Gurney - 147:19, 147:22 Gut - 190:8 H Hadn't - 173:11 Half - 110:5, 149:18 Hand - 35:25, 44:13, 46:10, 73:18, 77:17, 123:22, 163:24, 183:3 Handed - 53:7, 56:24, 62:6, 91:7, 164:21 Happening - 194:1 Happy - 65:24, 128:15 Harassment - 159:24, 160:24, 161:11 Hard - 166:2, 186:1 Hasn't - 31:16, 73:13, 76:3 Haven't - 121:9, 121:18, 122:12, 159:1, 173:9, 177:8 Head - 93:8, 120:13, 190:9 Heard - 9:22, 37:23, 42:3, 52:9, 64:19, 64:24, 65:20, 132:9, 134:7, 134:8, 134:17, 135:2, 135:24, 137:19, 140:23, 157:9, 161:1, 176:8, 195:23 Hearing - 3:24, 5:9, 110:15, 111:15, 132:5, 134:16, 134:20, 158:23, 198:23 Hearsay - 31:15, 32:10, 75:23, 76:2, 76:3, 76:17 Heartbeat - 170:17, 171:5 Heat - 83:9 Hello - 4:18, 4:21,	6:10, 7:6 Help - 142:3, 145:22, 150:15, 153:18, 154:8, 167:3, 167:9, 167:17, 168:1 Helped - 199:20, 199:22 Helping - 154:10 Helps - 8:19 Hence - 51:24 He's - 10:7, 10:8, 75:23, 150:13, 178:9 High - 148:8, 152:1, 198:8 Highlighted - 86:18 Highlights - 92:17, 96:21, 178:7 Hit - 113:14, 117:6, 156:4, 156:23 Hitting - 188:17 Hockomock - 119:9, 119:17, 120:4, 121:15, 122:6, 170:20 Hold - 62:16, 103:8, 126:19, 157:10, 159:5, 169:14 Holding - 43:18, 93:6, 115:12 Honest - 5:6, 51:13, 71:2, 72:9 Honestly - 57:11, 201:13 Hood - 142:22 Hope - 157:21 Hopeful - 125:8 Hopefully - 162:7, 162:18 Hos - 125:11, 128:8, 128:18, 129:3, 129:15, 129:20, 138:8, 171:10 Hospital - 52:10, 184:25 Hour - 35:11 Hours - 18:7, 18:14, 22:14, 57:1, 92:5, 106:11, 118:23, 119:24, 141:15, 152:18, 165:20, 172:5, 172:7 Hundred - 31:3 Hundreds - 112:25, 113:1 Husband - 4:16,
---	--	--	--	--

6:16, 23:11, 46:17, 57:14, 165:24, 202:25 Husband's - 59:11 Hypothermia - 130: 3, 130:8, 130:21, 131:11, 131:18, 137:19 I ID - 112:10 Identification - 28:1 3, 35:15, 37:14, 45:16, 73:4, 73:15, 73:21, 76:7, 77:18, 78:16, 91:13, 91:17, 91:19, 164:11, 164:19, 164:22, 164:25 Identifying - 77:11, 150:8 Ignoring - 45:8 Image - 190:9 Imagine - 186:1 Immediate - 148:20 Immediately - 148:7 Impact - 63:4 Impeached - 31:16, 104:23 Impeaches - 32:23 Impeachment - 10: 1, 10:13, 103:18 Implication - 160:9 Implies - 10:13 Implying - 134:15 Important - 7:22, 18:12, 150:5, 150:7, 150:24, 153:17, 154:12, 154:14, 154:16, 154:17 Impression - 11:15 Impression - 11:15, 133:1 Improper - 10:1, 10:13, 103:13, 103:18, 103:19, 103:24, 104:7, 133:9, 178:18 Inaccurately - 132: 25 Inadvertent - 176:2 Inadvertently - 109: 14, 110:14, 110:23, 111:1, 175:15, 176:1 Incomplete - 158:1 4	Inconsistent - 11:3, 11:5 Incorporate - 95:12 Incorrect - 20:16, 23:19, 68:20 Incriminating - 133: 21 Independently - 94: 20 Indicating - 49:13, 60:6, 61:7, 70:19, 71:8, 71:17, 108:9 Indicted - 3:23 Inference - 33:15, 34:21 Inflammatory - 63:3 , 63:8, 103:14 Info - 42:8, 43:5 Initial - 7:19, 9:20, 19:22 Initially - 100:4, 150:11 Initiates - 117:3 Injured - 155:15 Input - 169:23 Inside - 152:17, 153:10, 155:8, 155:20, 156:13, 156:14, 156:19 Insinuating - 19:2 Instantly - 185:7 Instruct - 113:18, 138:11 Instructed - 102:19, 104:5, 137:18, 137:22 Instruction - 33:20, 33:22, 45:24, 45:25, 62:22, 102:17, 103:14, 181:17, 181:19 Instructions - 35:16 , 63:10, 104:4 Insufficient - 103:1 5 Intend - 37:9 Intended - 62:4, 62:10, 165:5 Intensity - 148:8 Intent - 76:9 Interaction - 112:9 Interactions - 118:2 , 118:4 Internal - 196:25 Interpreted - 126:6, 170:3	Interpreting - 125:1 0 Interrupt - 22:9, 33:20, 37:24 Interviewed - 14:16, 24:7, 56:13, 57:3, 66:7, 99:1, 100:24, 101:1, 104:22, 122:17, 160:3, 161:16, 169:20 Interviews - 65:20, 168:18 Intimidation - 161:6 Introduce - 36:23, 177:6, 195:13 Introduced - 179:2, 179:6 Investigating - 199: 22 Investigation - 62:2 1, 161:5 Iphone - 112:1, 112:2, 112:4, 175:16 Ish - 23:23, 57:1 Isn't - 20:10, 25:7, 86:8, 88:16, 88:19, 89:1, 89:5, 89:8, 89:11, 89:14, 89:17, 89:21, 101:23, 115:3, 124:5, 167:12, 200:19 Issue - 9:18, 20:25, 21:3, 69:17, 103:12, 104:15, 114:1, 130:7, 130:21, 130:22, 134:10, 159:15, 161:17, 163:3 Issues - 32:8 Iterations - 129:19 Its' - 76:17 I've - 5:3, 11:21, 13:15, 14:15, 14:16, 24:21, 35:18, 103:15, 103:16, 104:3, 121:19, 122:13, 122:18, 133:20, 135:7, 160:22, 177:6, 189:17, 199:10 J Jacket - 144:2 Jen - 29:7, 32:21, 33:15, 37:17, 45:22, 179:18, 185:15,	187:6, 187:7, 187:11, 188:8 JENNIFER - 3:3, 22:1, 31:25, 32:24 John's - 25:8, 108:13 Judge - 22:13, 115:6 Julie - 9:8, 12:19, 12:20, 15:21, 16:13, 17:4, 17:8, 18:6, 18:11, 47:5, 47:10, 47:11, 47:12, 51:12, 51:15, 51:18, 51:24, 202:3 July - 100:1, 159:21, 159:24, 160:4, 161:6 June - 3:24, 5:2, 5:9, 6:3, 6:8, 6:19, 7:1, 7:10, 100:1 Juries - 13:15, 168:20 Jurors' - 63:7 K Katie - 164:17, 164:23 (C) Keeps - 188:16 Kerry's - 67:5, 72:11, 87:22 Key - 160:22 Kids - 201:16, 201:17 Knocked - 194:16 Known - 112:9, 116:9 Knows - 75:25, 76:1, 115:19 L Ladder - 196:15 Ladies - 102:19 Lally - 122:19, 122:20, 125:23 Lane - 22:2, 88:17, 89:6, 89:9 Language - 27:21 Lank - 67:18, 67:20,	68:2, 72:19, 81:15, 147:10 Lasted - 17:22, 107:16 Lasting - 96:9, 96:17, 97:14, 98:2, 98:11, 98:14, 106:24, 107:7, 107:23 Lasts - 96:12 Late - 157:6, 162:8 Lawn - 155:15, 155:24, 156:1, 156:19, 198:6 Lawyer - 115:15, 115:21, 133:12 Lawyers - 124:11 Laying - 148:17, 155:6 Layup - 120:22 Lead - 125:11 Leader - 179:1 Leading - 125:15 Learned - 18:9, 42:3, 120:21, 194:2 Learning - 120:19 Leave - 19:10, 29:16, 29:17, 181:13 Leaves - 63:4, 133:1 Leaving - 84:11, 89:25, 194:17 Leeway - 104:12 Length - 43:19, 92:20, 161:4 Lengthy - 8:20, 114:11 Letting - 114:7 Level - 152:1 (C) Lied - 10:13 Lifesaving - 149:7, 151:18, 151:24, 152:9, 152:10 Lighting - 166:7 Lights - 39:8, 43:1, 155:8, 196:1, 196:3, 196:4, 196:5, 196:19, 197:7, 197:15, 197:20 Liked - 55:1 Limit - 35:6 Limited - 34:17, 38:15
--	--	--	--	---

Line - 4:15, 40:2, 77:15, 94:14 Lines - 4:5, 4:6 List - 113:8 Listened - 57:18 Listener - 31:22 Listening - 56:7, 57:8, 59:13, 60:6, 110:22 Listing - 175:4 Lit - 166:6 Literally - 24:15, 123:15, 188:12 Lives - 76:1, 76:13, 77:11 Located - 80:8 Lock - 117:6, 117:9 Login - 119:18 Logs - 111:17 Long - 77:17, 100:4, 114:11, 117:25, 125:11, 125:21, 128:8, 128:18, 129:3, 129:15, 129:19, 129:20, 138:8, 146:8, 171:9, 171:10, 191:20 Longer - 90:19, 123:16, 199:21 Looked - 3:16, 24:19, 24:24, 25:1, 25:2, 25:8, 87:9 Looking - 29:2, 39:14, 49:11, 79:16, 85:15, 85:23, 94:5, 96:24, 111:5, 123:11, 142:3, 142:17, 170:20, 171:3, 174:9 Loose - 115:5 Lot - 37:23, 50:19, 88:6, 111:23, 175:6, 177:1, 177:22 Loud - 140:17, 189:13 Love - 59:9, 65:7, 172:12, 192:18 Lunch - 160:23, 165:4, 177:7 Luncheon - 124:13, 154:23 Lying - 102:21, 103:13, 167:24 M Madam - 73:18	Maggie - 75:8, 76:6, 77:9 Main - 33:18, 47:21, 169:8 Making - 109:22, 118:7, 118:9, 118:10, 122:23, 154:12, 183:8, 184:17 Man - 149:3, 149:22, 150:7, 150:12, 150:15, 155:6, 155:15, 155:23 Man's - 148:11 Many - 8:10, 13:15, 16:17, 31:1, 31:2, 94:8, 100:10, 101:7, 119:23, 122:11, 138:20, 169:20, 172:5, 172:7, 175:19, 176:24, 185:2, 191:24 Map - 74:6, 75:18, 76:4, 76:15, 79:7, 79:18, 79:23 Map/GPS - 73:20 March - 91:3, 98:1, 98:5, 98:10, 98:13, 98:16, 99:14, 99:25, 161:10 Mark - 124:7, 164:10, 164:11 Marked - 28:13, 30:13, 35:14, 37:18, 39:15, 44:14, 45:15, 45:23, 73:13, 73:14, 73:21, 78:15, 91:13, 91:16, 91:18, 106:5, 164:18, 164:24 Mary - 97:11, 97:12 Massachusetts - 19:25, 56:13, 57:5, 58:25, 61:9, 64:20, 199:13 Material - 33:13 Mccabe - 156:8 Mccabe's - 10:7, 32:21, 46:2, 59:10, 103:11, 157:18, 180:12, 187:6, 187:7, 195:13 Mccarthy's - 48:1, 48:3 MCLAUGHLIN - 31:3, 35:3, 164:18,	164:24 Means - 43:10, 47:8, 50:17 Meant - 33:11, 50:18, 60:11, 66:10, 172:24 Measures - 149:7 Media - 194:4 Medical - 148:20, 148:21 Meet - 20:13 Meeting - 159:23 Member - 87:15 Mental - 52:9 Mentions - 51:10 Mere - 36:21 Merely - 76:23 Message - 4:2, 4:3, 32:12, 37:3, 113:9, 117:6, 178:3, 178:13, 181:9, 182:14, 183:19, 187:24, 188:3, 188:4, 188:7, 189:25, 201:7 Messaging - 115:8, 116:15, 189:20 Midmorning - 94:1 Might've - 150:18, 150:24 Mike - 68:11, 68:25, 80:22, 81:15, 82:4, 82:7, 82:9, 89:16, 89:25, 147:10, 172:21 Million - 123:15 Mindful - 160:5 Minds - 63:7 Mine - 53:11, 187:21 Mine's - 112:5 Minimize - 179:22 Minor - 201:1 Mischarac-terizations - 134:10 Mischaracterize - 133:23, 134:4 Mischaracterizing - 133:6 Misconceptions - 199:20 Misheard - 41:8, 41:12 Misread - 122:25 Miss - 61:2, 61:5, 61:12	Missing - 25:6, 25:11, 25:25, 26:7, 26:11, 27:5, 27:9, 175:7, 193:9 Misspoke - 9:14 Mistake - 9:14, 44:22, 111:21, 186:20, 187:2 Misunderstand - 201:12 Misuse - 103:6 Mixup - 69:3 Mm - 27:15, 113:10, 185:14 Monday - 161:24, 162:9, 163:13 Months - 18:15, 99:22, 130:19, 170:3 Motors - 196:21 Move - 16:22, 62:22, 77:14, 102:22, 105:18, 105:23, 115:15, 132:17, 139:18, 144:19, 168:9, 169:17, 189:16, 191:6 Moved - 30:14, 147:20 Moving - 91:3, 91:22, 96:5, 107:20, 108:8 Much - 4:12, 60:14, 81:4, 123:16, 137:16, 152:15, 165:6, 172:10, 203:5 Mullaney's - 197:13 Multipage - 43:19 Multiple - 14:16, 14:17, 27:2, 28:4, 81:7, 106:10, 109:11, 110:18 Music - 110:22 Must've - 17:16 N Narrative - 33:5, 144:11 Narrow - 152:7 Needed - 38:18, 138:10, 148:20, 150:1, 150:15 Nefarious - 18:23, 18:24, 19:2, 19:4, 19:8 Neighborhood - 67:	2 Nepharious - 18:20 Nervous - 167:23, 170:15 New - 42:3, 65:16, 158:1 News - 194:16 Nice - 83:22 Night - 34:25, 72:22, 82:20, 118:23, 120:19, 170:19, 185:2 Nine - 15:4 Nineteen - 110:4, 110:19 Nobody - 85:18, 155:25 Noise - 198:2 Non - 115:14 Nonstop - 58:23 Noon - 45:3, 46:25, 47:1, 96:17 Normal - 32:18 Normally - 114:14 Nose - 149:16 Note - 29:19 Notebook - 178:8 Noted - 25:12, 37:12, 186:8, 198:22 Notes - 24:9, 25:12, 25:14, 25:18, 26:16, 26:17, 26:20 Notice - 24:9, 147:22, 157:20 Numbers - 187:13, 201:15, 201:20, 202:3 O Oakdale - 81:14, 89:17 Objected - 12:1, 116:2, 186:23, 187:5 Objecting - 116:5 Objectable - 159:4 Observation - 24:16 Observations - 24:11 Obviates - 31:7 Occasion - 114:23 Occupied - 144:17 Occurred - 27:18, 136:8 October - 100:23,
---	--	---	--	--

101:17 Offer - 32:15, 167:9, 172:12 Offered - 31:20, 31:21, 174:3, 181:17 Officers - 8:10, 14:17, 145:21 Officials - 150:25 Often - 112:20 O'keefe's - 66:24, 78:21, 107:23, 108:9, 108:19, 108:22, 109:2, 109:6, 109:18, 110:6, 111:5 Old - 181:9 OMG - 50:18 Omissions - 10:15 Ones - 158:1, 158:4, 159:4, 163:15, 164:4 ONG - 50:18 Ongoing - 114:1, 159:24, 160:2 Open - 62:1, 112:5, 112:7, 112:13, 112:16, 113:4, 115:7, 116:16, 116:20, 116:22, 117:7, 119:7, 125:18, 125:19, 140:3, 157:15 Opened - 119:15, 119:18, 119:22, 160:1 Opening - 161:20, 162:3 Operator - 150:20, 151:2 Opinions - 60:13, 60:15, 63:3, 65:4, 66:11 Order - 107:5, 132:16, 133:15, 133:17, 175:5, 178:16 Orderly - 177:8 Organizing - 64:18 Orient - 46:18, 46:19, 56:17, 74:5 Originally - 131:1 Otherwise - 105:2, 112:9, 117:23, 144:17 Outgoing - 187:2, 187:3	Overheard - 64:19, 65:21 Overruled - 37:13, 186:23 Own - 11:22, 115:16, 115:21, 170:4, 170:7 Owned - 47:18 Ozone - 120:5, 120:7, 121:15, 122:7 P Package - 36:8 Packet - 36:9 Panic - 170:21, 170:24 Panicked - 170:16 Para - 36:18 Paramedics - 151:14 Parse - 32:19 Particularly - 165:6 Parts - 59:15, 105:16 Passcode - 112:4 Passed - 147:23, 148:2, 149:23 Passenger - 32:25, 141:14, 141:17 Past - 3:22, 132:25, 147:20, 161:5 Patience - 90:22, 127:16 Patient - 103:15 Pause - 142:12, 143:2, 143:8, 144:21, 146:2, 147:8 Pay - 5:6, 149:17 Paying - 110:21, 162:3 PD - 67:18, 199:13 Peggy - 188:25, 193:16, 193:17, 194:7, 194:17 People - 32:15, 32:17, 38:8, 57:16, 62:11, 103:23, 153:6, 168:4, 168:6, 168:11, 169:21, 180:2, 184:8, 184:12, 194:16, 195:2, 198:7, 202:17 Percent - 138:5 Perceptions - 137:14 Percipient - 64:15,	64:23 Perfectly - 63:21 Peril - 155:19, 156:3, 156:16 Period - 6:10, 32:22, 35:2, 55:14, 55:15, 70:20, 92:11 Permission - 38:21, 46:3, 73:5, 141:3, 142:9 Personal - 66:11, 84:7 Personally - 56:13, 99:1 Personnel - 149:6 Person's - 202:1 Photos - 164:17, 164:23 Phrase - 25:19, 129:3 Phrases - 130:2 Pick - 20:14, 68:3, 68:4, 68:10, 68:16, 69:1, 117:2 Picked - 22:23, 23:15, 69:24, 178:16 Picking - 70:2, 101:3 Picks - 193:11 Piece - 71:7, 84:10, 87:24, 127:8, 193:23 Piecemeal - 35:10 Pieces - 25:6, 25:11, 25:25, 26:7, 26:11, 27:6, 27:9, 30:25, 32:20, 60:9 Pink - 178:7 Pinpoint - 14:17, 80:9, 82:1 Pinpointed - 78:2, 78:18, 79:6, 79:10, 79:18, 79:23, 80:18, 81:12, 81:22 Pit - 84:4, 85:5 Pitch - 198:8 Pizza - 48:7 Place - 90:5, 102:4, 161:11 Placed - 147:19 Plan - 20:21, 20:23 Play - 140:12, 142:5, 142:24, 143:6, 143:15, 145:9, 146:5, 147:2, 147:11, 157:19, 158:10, 158:12,	158:19, 158:20, 158:23 Played - 140:18, 140:20, 140:21, 142:11, 143:1, 143:7, 143:16, 143:19, 144:20, 145:10, 145:12, 146:1, 146:6, 146:14, 147:7, 147:12, 157:22 Playing - 158:14, 171:3 Pleads - 54:18, 55:6 Plugged - 129:15 Pocket - 110:13 Pointing - 75:11, 115:13 Points - 138:8 Portion - 34:17, 86:18, 140:20 Portray - 19:6, 32:17, 34:20 Positing - 103:12 Positive - 119:2 Posturing - 103:22 Potential - 103:18 Precious - 153:2, 154:8 Prefer - 127:8, 127:10 Preference - 157:14 Prejudicial - 63:8 Prepared - 76:15, 137:9 Presence - 194:3, 194:4 Present - 90:17, 157:11, 165:8 Presentation - 177:21 Presented - 124:21 Press - 27:22, 28:2, 180:1, 180:2, 194:4 Pressed - 159:4 Pressure - 177:4, 192:13 Pretense - 10:4, 11:19 Previous - 55:2, 102:19, 157:20 Previously - 106:4, 109:24, 110:8, 111:20, 139:21, 158:2 Prince - 7:17, 7:20,	8:7, 8:25, 9:3, 9:5, 11:22, 12:18, 15:24, 17:7 Printed - 55:18, 90:21 Printout - 75:25 Printout/ Location - 73:20 Prior - 3:24, 18:4, 47:16, 51:18, 86:16, 86:24, 101:24, 102:7, 105:9, 105:10, 131:10 Private - 61:23, 62:1, 62:10, 200:13, 201:18 Privy - 56:18, 60:7, 61:7, 65:10 Problem - 4:13, 22:8, 73:8, 159:2, 163:10 Proceed - 37:20 Produce - 180:14 Produced - 74:22, 158:17 Professionals - 151:6 Prohibited - 63:11 Prompted - 72:2 Pronoun - 51:10 Proper - 104:16 Property - 152:8 Proposed - 164:2 Propounding - 180:14 Provide - 178:12 Provided - 36:3, 70:23, 71:17, 125:23, 169:23 Public - 27:22, 28:2, 62:2, 62:5 Publish - 46:3 Published - 38:22 Puke - 190:8 Pull - 40:23, 123:13, 153:20 Pulled - 74:21, 122:8, 197:5, 197:10 Pulling - 130:4 Purple - 137:6 Purposely - 175:23 Push - 117:21 Puts - 160:6 Putting - 36:13, 36:17
---	---	---	--	---

Q Quarrel - 93:11 Questioned - 16:17, 18:10, 133:16 Questioning - 13:12, 77:15, 159:18, 159:22 Question's - 105:23 Quick - 73:25, 123:7, 155:3, 158:10, 178:7, 191:21 Quickly - 36:13, 123:22, 124:12, 148:21, 149:8, 158:12, 181:14 Quote - 4:4, 4:16, 6:8, 25:4, 105:8, 105:9, 105:14, 105:15, 105:21 Quote/ Unquote - 57:18 Quoted - 11:17	Reasons - 36:17 Receive - 92:18, 93:21, 94:3, 94:9, 94:17 Received - 7:13, 7:22, 13:23, 38:8, 71:21, 75:6, 93:17, 94:11, 117:14, 157:23, 177:5, 177:9 Receiving - 72:1, 159:25, 194:11 Rechecked - 126:24 Recipient - 34:5 Recognized - 148:7 Recollections - 92:24 Recorded - 10:6, 10:7, 139:4 Recording - 164:2 Recount - 195:2 Recovered - 121:7 RECROSS - 195:19 Red - 125:5, 196:4 Redacted - 164:17, 164:23 Redaction - 39:19 Redactions - 195:12 Redirect - 12:6, 34:6, 34:8, 116:7, 162:18, 163:7, 165:12, 177:2, 195:22, 198:16 Referred - 149:22 Reflect - 186:3 Reflected - 107:2, 195:4 Reflecting - 176:19 Reflects - 183:3 Reframe - 141:19 Refreshed - 17:3, 86:7, 94:17, 94:19 Refreshes - 8:20, 92:24 Refreshing - 86:8 Refuse - 168:24, 169:1 Refused - 199:7, 199:14, 199:24 Regards - 101:9 Regret - 22:17 Relationship - 32:18, 101:15, 101:21, 159:19, 160:2, 160:7, 161:4, 185:1,	185:5 Relative - 160:10 Relaxed - 171:3 Relay - 150:25 Rely - 192:2 Remembering - 120:18, 195:8 Remembers - 95:7 Remind - 76:21, 193:14 Repeated - 103:6, 103:10 Repeatedly - 104:8, 104:20 Reported - 51:24, 65:9, 72:7 Reporter - 73:18, 114:23, 126:25 Reporting - 51:15, 58:1, 64:23 Representative - 39:14 Representatives - 62:16 Request - 37:5, 37:6, 128:9 Required - 112:4, 112:8 Requirement - 182:20 Requires - 111:21, 112:8, 112:16 Residence - 66:24, 67:1, 68:2, 68:3, 75:18, 77:2, 84:3, 84:8, 88:20, 89:2 Resistance - 11:20 Resistant - 198:1 Resolve - 163:4 Respectively - 91:13 Respond - 50:7, 190:18 Responder - 151:25, 152:9, 153:6 Responders - 151:16, 166:10, 166:12, 195:24 Responding - 41:2, 41:3, 54:13, 66:7 Response - 31:11, 40:25, 42:5, 42:18, 47:14, 49:22, 50:5, 59:10, 60:19, 64:2, 64:3, 188:7 Responsive - 115:1	4 Restrictive - 103:16 Restroom - 72:16, 83:16, 83:21 Result - 159:25 Retiring - 178:15 Retrieve - 38:25 Returned - 165:18, 166:3 Reverse - 41:13, 107:5 Reviewed - 135:5 Rid - 124:23 Ride - 141:14, 142:1 Road - 89:18, 151:22, 151:23, 194:2 Roberts' - 58:12, 64:20, 69:23, 84:5, 197:9, 197:14 Roberts's - 40:20, 65:10 Rule - 181:6 Ruling - 34:18, 157:22 Run - 146:24, 160:5 Running - 83:7, 143:11, 190:20, 196:21, 196:22, 197:1 Runtime - 140:10, 142:7, 143:21, 144:19, 145:24, 146:13	152:14, 167:3, 174:11 Screamed - 154:7 Screaming - 20:5, 130:2, 156:1, 156:4, 198:7, 198:10 Screen - 46:9, 76:10, 124:19, 127:7, 145:7, 146:22, 177:19, 177:20, 183:5 Scroll - 117:2 Searched - 129:3, 130:1 Searches - 139:3, 171:19 Searching - 120:4, 122:6 Seat - 141:17 Sec - 35:22 Secondly - 32:12, 133:4 Seeing - 6:3, 21:24, 71:6, 179:16, 185:15, 190:8, 197:10 Seek - 195:13, 200:1 Seen - 21:20, 25:14, 62:7, 62:19, 63:22, 71:9, 72:19, 103:3, 119:23, 121:8, 135:5, 135:7, 139:22, 159:1, 166:3, 173:4, 174:12, 180:8 Select - 177:21, 178:15 Selected - 178:24 Selective - 32:15 Selectively - 177:19 Self - 158:24 Sent - 4:2, 38:8, 38:10, 38:17, 40:20, 54:7, 135:17, 182:5, 190:5 Separate - 44:11, 55:13, 103:20 September - 100:23, 101:16, 101:24, 102:7, 102:15, 103:1, 105:9 September/ October - 101:8 Sequestration - 132:16, 133:5, 133:11,
R Racing - 190:2, 190:7 Ran - 72:17 Ranged - 106:14 Rank - 76:3 Rare - 115:15, 115:18, 115:20 Rate - 61:3, 61:6 Rather - 30:22 Reach - 176:7 Reaching - 176:7, 176:12 Reaction - 147:22 Reads - 51:23, 55:6, 60:22, 181:23 Read's - 10:11, 62:15, 157:10 Ready - 3:7, 165:1, 165:9 Reason - 33:18, 70:17, 84:24, 104:20, 133:19, 133:20, 138:6, 155:22, 155:23, 156:2, 156:14, 160:15, 172:10, 178:24, 179:2, 179:24, 198:1 Reasonable - 37:7, 63:21			S Safari - 119:11, 119:13, 120:2 Safe - 82:3, 82:21, 82:23 Safety - 156:13 Sake - 99:25 Saraf - 140:1, 140:2, 149:15, 149:20 Saraf's - 197:11, 197:18 Sat - 4:18, 72:10, 83:4, 101:16 Save - 104:8 Scared - 167:23, 170:15 Scenario - 141:21 Scene - 19:23, 87:9, 135:6, 139:24, 148:4, 148:6, 149:8,	

133:15, 133:17, 134:1 Sergeant - 67:17, 67:18, 72:7, 72:19, 84:2, 84:15, 89:18, 89:20, 198:16, 199:4 Series - 12:12, 12:13, 29:19, 30:1, 163:5, 200:3 Serving - 158:24 Session - 90:16, 157:5, 162:11 Set - 12:7, 30:5, 35:18, 121:11, 164:17, 164:23, 169:6, 203:4 Settle - 190:17 Seven - 82:4, 89:8, 107:23, 109:5, 109:25, 110:4, 110:19, 111:1, 118:1, 118:5 Seventeen - 157:24 Seventy - 188:15, 188:19 Several - 88:8, 95:12, 109:17, 111:21, 114:12, 137:11, 142:6 Severely - 155:15 Shaking - 130:3, 190:19 Sharing - 191:22 She'll - 75:12 Shift - 90:7, 91:1 Shirt - 137:5 Shock - 88:4, 188:9, 188:16 Shocked - 167:23 Shop - 47:18, 48:8 Shortly - 7:15, 12:15 Shot - 115:20, 115:24 Shots - 115:22 Shouldn't - 23:12, 76:1, 192:2 Show - 14:3, 17:19, 19:14, 28:18, 28:19, 32:10, 32:13, 36:23, 46:6, 71:13, 73:6, 105:2, 117:12, 119:21, 121:21, 123:3, 127:8, 187:13 Showed - 20:4, 70:24, 161:9,	161:13, 173:14, 198:19, 198:21, 200:8 Showing - 75:2, 115:9, 135:8 Shown - 173:25, 175:1, 175:7, 191:13 Shows - 17:22, 17:24 Shut - 198:13 Sick - 188:17, 189:3, 189:17, 190:20 Side - 142:19, 197:13 Signs - 81:7 Silenced - 197:2 Similar - 14:20, 59:21 Simple - 32:2, 40:17, 138:3, 191:16 Simply - 46:2, 160:17, 160:21, 182:13 Single - 46:19, 104:21, 109:21, 118:4, 118:8 Sinister - 32:17 Siren - 166:18 Sirens - 103:9, 166:15, 195:23 Sister's - 19:15, 19:19, 155:7, 166:9 Sit - 13:11, 25:23, 26:22, 87:16, 87:17, 92:8, 93:1, 93:16, 105:20, 112:19, 118:10, 121:22 Sitting - 5:8, 55:13, 55:15, 85:15, 137:2 Situation - 148:8, 148:10, 155:6, 186:2 Six - 41:7, 82:4, 85:13, 149:18 Sixty - 185:13, 185:23 Skill - 152:1 Skip - 79:3 Skis - 178:4 Slash - 69:1 Sleep - 41:19, 192:10 Sleeve - 130:4 Slowed - 174:9 Slowly - 85:7, 87:9, 87:17	Snow - 148:18, 149:23, 150:4, 150:12, 165:21, 166:1, 179:16, 185:15 Snowing - 83:1 Solely - 38:15 Solved - 156:10, 156:11 Somebody's - 133: 7 Something's - 79:6 Somewhat - 8:20 Sound - 140:24, 141:1, 155:11, 174:8, 198:2 Sounded - 140:25 Sounds - 19:4, 159:8 Source - 135:1 Specific - 3:23, 13:16, 13:17, 16:6, 16:7, 16:16, 28:6, 94:22, 137:16, 181:17 Specifics - 8:10, 14:2, 71:19, 101:18, 101:22, 140:8 Sped - 150:19 Speed - 95:19 Spend - 177:3 Spent - 172:5, 172:10, 177:4, 193:22 Spoken - 87:11, 100:9, 137:11, 160:19, 199:10 Sports - 119:9, 119:17, 120:7, 121:15, 122:7 Spotlight - 196:2 Spotlights - 166:7 Spots - 179:9 Stamp - 40:9 Stand - 21:22, 36:11, 44:9, 103:21, 132:13, 134:5, 138:5, 193:12 Standard - 10:18, 10:23 Standing - 104:4, 104:5 Stands - 50:20 Staring - 152:21 Start - 51:15, 96:22, 128:25, 142:16,	181:4 Started - 51:14, 100:7, 165:21, 181:12 Starting - 30:6, 39:17, 45:2, 45:3, 107:21, 142:5, 142:7, 165:22, 183:13, 190:20 Starts - 92:14 Statement - 11:22, 26:24, 65:6, 103:2, 103:20, 103:25, 131:11, 131:17, 131:22, 132:5, 132:9, 135:2, 135:15, 137:19, 138:7, 158:24, 173:14, 173:17, 182:13 Statements - 10:7, 15:24, 17:12, 36:21, 38:14, 64:18, 64:24, 65:10, 103:7, 103:11 Stayed - 85:13, 89:12 Staying - 98:9 Steps - 111:22 Stick - 165:22 Stickler - 77:13 Stomach - 189:3 Stop - 81:7, 84:4, 85:5, 85:10, 87:5, 99:25, 105:3, 114:14, 143:17, 145:11, 146:15, 162:13, 179:16, 185:15, 198:15, 200:1 Stopped - 83:1, 84:2, 85:7, 86:13, 87:3, 88:1, 114:22, 172:24, 173:12, 174:5, 174:7, 199:1, 199:3, 199:18, 199:24 Stopping - 87:6, 87:7 Stops - 193:11 Stories - 180:2 Story - 23:14, 32:16, 137:24, 179:13 Straight - 79:4 Stream - 58:1 Street - 47:21,	47:25, 48:2, 165:22, 167:5, 167:6, 167:11 Stretch - 21:22, 36:11, 132:14 Stricken - 76:22 Strike - 21:18, 77:14, 115:15, 170:24 String - 62:11 Striped - 137:4 Struck - 24:1 Sub - 47:18, 48:8 Substantive - 36:19 Substantively - 31: 17, 32:10, 34:10 Suggestion - 33:15 Summarizes - 10:1 1 Summary - 10:3, 21:4 Summer - 100:8, 101:4, 101:12 Supplied - 92:11 Support - 172:12, 191:25 Surrounding - 65:1 8 Suspended - 199:1 3 Sustained - 12:22, 21:17, 23:21, 25:20, 68:21, 69:6, 70:22, 71:24, 102:18, 105:23, 132:7, 132:11, 139:6, 144:9, 144:14, 171:8, 172:17, 182:22, 194:9 SUV - 3:14, 3:20, 3:21, 4:22, 6:3, 6:13, 7:2, 7:7, 146:25 Suvs - 196:9 Sworn - 3:3, 10:8 T Tab - 8:19, 96:22 Taillight - 22:25, 23:5, 23:8, 23:12, 24:11, 24:19, 24:24, 25:1, 25:8, 25:9, 25:23, 25:25, 156:5, 156:24 Taillights - 160:24 Tainted - 160:9 Taking - 10:2, 24:9, 25:12, 97:6, 144:6
---	---	---	---	--

Tap - 117:2 Team - 61:2, 126:13 Technique - 152:10 Techniques - 151:1 9, 151:24 Tedious - 123:19 Telephonically - 56:19 Tells - 179:13 Ten - 69:14, 96:12, 98:3, 143:21, 157:6, 162:8 Term - 120:23 Terms - 15:16, 25:17, 27:21, 155:8, 178:18, 180:10 Test - 116:18, 188:4 Textbook - 62:19, 63:15, 63:16, 64:1 Texted - 40:15, 112:13, 178:17, 191:15 Texting - 5:7, 62:9, 62:12, 110:13, 112:11, 112:17, 113:5, 184:20, 190:13, 192:25, 193:20, 194:16 Thereabouts - 20:8 Thereof - 196:5 They'll - 77:14, 105:1, 160:10 They've - 75:25, 177:24, 180:9 Third - 43:3 Thirteen - 158:18, 190:12 Threads - 29:9 Three - 4:6, 7:19, 8:7, 31:3, 46:22, 81:6, 83:18, 107:13, 130:19, 139:3, 141:22, 142:13, 145:13, 146:10, 172:8 Thumbs - 55:4 Tie - 76:5 Tight - 115:6 Tighten - 115:1 Tighter - 115:14, 115:17 Timeframe - 96:20, 120:14, 179:19 Timeline - 36:25, 52:18, 65:25, 66:1, 66:3, 66:9, 136:7,	136:14, 137:9, 137:10, 193:2, 193:15, 193:24 Timelines - 179:8 Timestamp - 53:23, 54:5, 54:15, 55:22, 56:8 Timing - 77:13 Today - 25:24, 26:1, 26:22, 84:2, 87:16, 87:17, 119:1, 164:5, 177:9 Tom - 9:11, 9:13, 9:14, 9:16, 15:22, 15:23, 16:14, 17:5, 17:8, 18:11, 178:15 TOMM - 43:10 Tommy - 12:20 Tomorrow - 32:3, 32:4, 41:20, 42:8, 43:10, 43:14, 192:10 Tons - 179:15 Took - 29:11, 48:19, 58:14, 66:13, 162:2 Top - 39:17, 39:18, 43:4, 45:8, 86:18, 120:12, 187:19 Total - 43:19 Touch - 176:13, 184:8 Touched - 160:9 Toward - 138:9 Town - 67:2 Trained - 149:7, 151:18, 151:24, 153:6, 167:18 Training - 152:1, 152:3, 152:10 Transcript - 5:13, 6:18, 14:24, 15:10, 133:3, 161:19, 161:23, 161:25, 164:3, 198:19 Transmitted - 38:3, 182:6, 182:9 Trauma - 190:18 Travels - 67:17 Trial - 11:12, 11:14, 33:8, 77:17, 178:1 Trip - 67:22 Troopers - 57:13 Truck - 143:11, 147:20, 166:17 Trucks - 196:12 Truly - 52:1, 86:6 Truth - 31:20, 34:3,	38:14, 46:1, 129:22, 181:18, 182:13 Truthful - 103:2, 138:25 Tuesday - 20:3 Tully's - 102:11 Turn - 38:19, 79:3, 92:2, 184:20, 192:9, 193:4 Turned - 111:6, 148:1, 158:2 Twenty - 110:20 Twice - 104:6, 155:17 Twofold - 132:24 U Unaware - 135:14 Uncertain - 170:15 Uncomfortable - 13 8:9, 138:14, 138:18 Understood - 35:17 , 37:9, 159:13, 162:15, 162:19 Undue - 34:17, 36:20 Unfair - 10:16, 11:18 Unfairly - 63:8 Unidentified - 201:2 0, 202:11 Unknown - 107:11, 107:12, 107:14 Unless - 31:13, 133:3 Unnecessary - 31:5 Untruthful - 103:2 Update - 42:1, 42:2, 50:2, 58:12, 58:15, 184:21, 184:25, 191:11 Updated - 132:8 Updates - 32:3, 51:19, 65:12, 65:14, 65:15, 192:16 Upstairs - 119:3, 119:8 Used - 11:21, 19:5, 25:22, 26:6, 34:3, 46:1, 119:14 Using - 10:4, 33:5, 120:2 Utilizing - 178:9	V Vehicle - 5:10, 24:2, 156:24, 197:5, 197:9, 197:14, 197:18 Vehicles - 166:13, 197:6, 197:8 Verizon - 91:8, 91:16, 91:18 Version - 136:7, 136:9 Versions - 27:18 Vesting - 63:6 Videos - 163:8 Viewed - 158:6 Vigorously - 104:13 Violated - 133:5, 133:17 Visibility - 166:4 Visit - 32:5, 66:13, 66:17, 67:13, 67:16, 72:10, 72:13 Visited - 171:23 Voicemail - 18:2, 117:18 Voicemails - 117:23 , 117:25 Volitionally - 116:15 Volume - 140:13 Voluntarily - 182:23 Vomit - 179:11, 185:25 W Wait - 34:1, 103:8, 158:22, 163:23 Waiting - 61:10, 90:20, 162:14 Waking - 18:4 Walked - 144:1, 154:6, 154:7 Walking - 146:18, 154:1, 154:19, 157:7 Wall - 48:3 Wants - 123:11, 123:20 Warm - 83:22, 153:10, 153:12 Wasn't - 10:6, 18:12, 84:13, 84:16, 84:23, 100:20, 110:21, 130:22, 148:3, 150:3, 156:15, 156:16, 162:3, 202:22	Waste - 165:5 Watch - 170:11 Watched - 3:16, 163:8, 163:9 Watching - 3:14 Waterfall - 18:11, 47:24, 47:25, 48:2 Wear - 170:11 Wearing - 137:3 Weather - 81:9, 165:16 Week - 132:4, 132:9, 133:24, 135:1, 157:7, 159:5 Weekend - 159:12, 164:21 Weeks - 99:14, 99:22 Welcome - 5:23, 39:2 Welcomed - 199:16 We'll - 20:15, 30:1, 34:7, 35:10, 39:6, 90:9, 110:1, 124:7, 154:23, 162:7, 162:16, 164:11, 189:16, 195:14, 195:17 We're - 26:2, 31:2, 36:17, 36:22, 41:13, 49:11, 109:15, 121:19, 124:10, 126:20, 130:17, 142:17, 147:2, 151:5, 151:6, 158:15, 194:10 Weren't - 64:21, 65:21, 153:24, 154:2, 155:12, 155:22, 155:23, 156:17, 156:21, 172:14 We've - 62:19, 63:22, 67:20, 100:10, 139:2, 166:3 Wherein - 107:6 Whereupon - 29:7, 37:17, 45:22, 73:20, 91:16, 91:18, 164:17, 164:23 Whiffin - 126:15, 126:17, 127:5 Whole - 30:25, 33:1, 156:10, 156:11, 173:17 Who's - 16:8, 40:18,
---	---	--	--	---

41:2, 46:14, 47:11, 48:20, 52:5, 56:2, 59:16, 60:16, 60:24, 104:5, 187:19 Wife - 83:5 Window - 152:20 Windows - 165:24 Windshields - 165: 23 Wine - 188:12, 191:20 Winter - 83:11 Wipe - 165:24 Wishes - 31:6 Wit - 64:25 Witnessed - 137:9 Witnesses - 62:20, 63:20, 64:6, 64:15, 64:23, 65:9, 103:19, 104:13, 114:22 Witnesses' - 64:24 Woke - 166:21, 166:22 Wolk - 40:23, 46:7, 52:3, 140:14, 143:17, 145:25, 146:13, 147:8 Won't - 46:18, 125:15, 132:19, 163:14, 187:19, 188:3 Word - 5:14, 18:23, 19:4, 19:5, 19:7, 45:5, 49:8, 50:9, 60:11, 64:1, 84:4, 136:1 Wording - 16:18 Words - 5:4, 6:6, 11:11, 13:9, 13:10, 14:4, 14:6, 16:15, 21:4, 21:5, 25:22, 26:6, 43:4, 65:6, 196:10 Working - 177:6 Worried - 156:17, 156:18, 156:21, 179:25, 184:1 Wouldn't - 26:20, 26:21, 49:7, 77:11, 133:22, 136:9, 176:1, 197:3 Would've - 197:19 Wrap - 155:1, 190:9 Write - 23:18, 56:5, 58:22, 58:23, 59:8, 59:11, 59:19, 61:11,	65:5, 192:22 Writing - 62:8, 62:14, 136:17 Written - 10:2, 10:14, 21:10, 36:18, 103:20, 169:23 Wrote - 10:6, 21:6, 56:7, 59:20, 102:14, 137:10, 170:3, 187:24 Y YANNETTI - 113:24, 125:24, 126:13 Yard - 155:7, 180:1 Year - 66:20, 67:7, 67:14, 68:8, 70:6, 70:13, 72:6, 86:10, 86:12, 86:23, 111:16, 178:1, 178:2, 181:9, 198:23 Years - 123:15, 167:19, 170:4, 180:12 Yelled - 23:11 Yelling - 130:2, 198:7, 198:10 Yesterday - 20:2, 138:20, 162:11, 163:9 You'll - 31:12, 37:7, 76:21, 77:15, 77:21, 143:17, 149:18 Yours - 69:4, 84:4, 148:14, 158:20 Z Zero - 106:22, 189:16 Zoom - 124:20 , '23 - 100:8, 101:12 'Hos - 125:21 0 02148 - 43:20 1 1/29 - 42:17, 185:10 1/29/22 - 29:20, 40:12, 184:20, 185:23, 188:12, 188:15, 188:20,	188:24, 189:3, 189:17, 189:20, 190:12, 190:18, 190:23, 191:6, 192:9, 192:22 1/30 - 79:13, 79:14 1/30/2022 - 78:25, 79:21, 80:1, 80:24, 81:17 1/30/22 - 80:14, 82:2 1:00 - 47:2, 123:18 1:07 - 157:1 1:59 - 157:5 10 - 67:13, 68:8, 72:5, 73:3, 81:21, 108:8 10:16 - 98:1 10:26:29 - 193:20 10:54 - 92:19, 93:1, 93:18, 95:22 1049 - 145:24 11 - 69:11 11:00 - 90:12, 118:20 11:30 - 19:24, 20:8, 118:17, 118:19 11:47 - 90:16 11:51 - 96:16 110 - 138:5 1155 - 145:25 12 - 7:7, 88:16, 98:11, 181:9 12:00 - 118:17, 118:19 12:13 - 78:14, 88:16 12:14 - 106:14, 106:16, 106:19, 106:24, 109:19, 109:20 12:15 - 109:2 12:18 - 106:16, 107:6, 108:7, 109:19, 109:20, 176:5 12:19 - 78:25, 79:1, 88:19 12:29 - 107:21, 108:5, 110:1, 118:8, 118:11 12:41 - 108:8, 108:12 12:42 - 4:19 12:43 - 108:16 12:45 - 3:21, 4:1, 4:2, 4:3, 4:21, 4:23,	4:24, 5:10, 6:4, 6:10, 6:14, 6:15, 7:2, 7:6, 7:8, 7:9 12:46 - 108:19 12:47 - 108:22, 108:25 12:48 - 37:4, 97:20 12:49 - 94:10, 96:2 12:50 - 46:21, 46:25, 106:15, 106:20, 110:1, 118:9, 118:11 129 - 184:7, 184:14 13 - 4:6, 158:4, 158:7 13222 - 194:20 14 - 96:23, 97:14, 99:13 14th - 97:5 15 - 90:9, 106:21, 138:23, 158:5, 158:7, 162:14, 164:1, 164:8, 164:21, 194:18 16 - 108:19 160 - 185:10, 185:11 168 - 188:5 169 - 188:7 17 - 97:14, 97:17, 159:2, 159:4, 183:13, 183:21 170 - 188:11 175 - 188:24 18 - 184:1, 194:20 181 - 173:24, 173:25 182 - 173:24, 173:25 19 - 108:16, 110:1, 184:4 2 2.7 - 110:5 2:00 - 119:2, 185:10 2:04:32 - 185:23 2:05:45 - 188:12 2:06:35 - 188:15 2:13:41 - 188:20 2:14 - 190:18 2:14:15 - 188:24 2:14:56 - 189:2 2:27 - 120:11, 120:17, 120:22, 121:1, 121:7, 121:12, 121:20, 122:2, 122:4,	122:22, 123:1, 128:4, 129:10, 129:12, 138:10, 139:3, 170:19 2:55 - 52:16, 53:24, 54:6 2:57 - 203:6 20 - 4:15, 90:9, 162:14, 177:3 2023 - 3:24, 5:2, 5:9, 6:3, 6:8, 6:19, 7:1, 7:10, 100:23, 101:5, 101:8, 101:25, 102:4, 102:8, 102:15, 103:1, 105:9 2024 - 66:19, 67:7, 67:13, 68:8 207 - 189:12, 189:14 208 - 189:12 210 - 189:20 212 - 193:11 21st - 69:20, 86:23 22 - 96:9 23 - 161:15 24 - 4:5 248 - 193:8, 193:9, 193:10 25 - 4:5, 154:6, 167:19 253 - 193:11 26 - 13:7, 106:5, 107:2, 184:7 28 - 97:20, 97:23 289 - 191:7, 191:9 28th - 14:15, 32:4, 35:3, 35:5 292 - 191:13 296 - 192:9 298 - 192:15 29th - 14:15, 26:6, 27:8, 32:4, 35:4, 35:7, 36:1, 43:12, 94:3, 94:9, 94:18, 100:12, 165:21, 168:13, 181:4 3 3:00 - 12:25 3:27 - 98:14, 98:18 3:42:06 - 189:17 3:55 - 97:14 30 - 43:14, 72:3, 72:8, 78:14, 79:14, 79:15, 80:25, 84:15,
---	--	---	---	--

91:22, 96:5, 96:8, 96:11, 152:20, 167:19, 177:1, 177:3, 197:4 300 - 31:11, 35:1 308 - 192:21 30th - 32:5, 35:5, 70:25, 88:17 31 - 96:15, 106:24, 179:23, 184:14, 193:19, 194:10 31st - 91:23, 194:1, 194:23 32 - 167:1, 167:2, 167:5, 197:8, 197:19, 197:23 35 - 149:11 36 - 107:8, 107:16 37 - 109:2 38 - 17:22, 18:2 4 4:33:40 - 189:20 4:34 - 97:24 4:35 - 54:16 4:38:20 - 190:12 4:40:38 - 190:19, 190:23 4:45 - 96:11 4:51 - 98:5 4:53 - 7:14, 12:14 4:55 - 55:23 4:59:49 - 184:1 40 - 174:23, 177:1 420 - 140:10 44 - 108:5 45 - 81:18, 83:5, 89:21, 89:22, 165:4 47 - 37:17, 107:6 48 - 45:22, 184:20, 184:23 49 - 106:25 5 5:0:4:40 - 184:4 5:00 - 45:4, 98:6 5:07 - 17:14, 17:19, 18:6, 19:15 5:12 - 89:1, 89:3, 172:20 5:15 - 56:9, 56:11, 56:12 5:15:41 - 184:7 5:19 - 97:17 5:21 - 79:13, 79:15,	89:5 5:22:57 - 184:14 5:23 - 58:10 5:28 - 79:21, 89:8 5:30 - 23:23, 45:4, 45:11 5:31 - 58:21, 58:22 5:32 - 59:7 5:34 - 37:5 5:35 - 23:23 5:36 - 80:7, 80:15, 89:11 5:40 - 80:14, 80:16, 89:14 5:43 - 81:1, 81:18, 89:17 5:45 - 82:12 5:50 - 98:9 50 - 174:23 52 - 108:22, 108:25 58 - 41:6 59 - 108:12 6 6:00 - 98:6, 149:13, 165:19 6:03 - 139:18, 148:6, 149:11 6:07 - 153:24, 154:12 6:08 - 153:24, 154:13 6:10 - 149:16 6:23 - 129:18, 139:3 6:24 - 129:18, 139:3 6:28 - 81:17, 81:18, 89:21 6:30 - 82:12 6:34 - 82:2, 90:1 621 - 142:7 7 7:07 - 192:15 7:30 - 34:25 7:41 - 143:17 7:50 - 41:6 7:52 - 191:6 7:54 - 36:1, 40:12, 40:13, 40:16 7:54:38 - 192:8 7:56 - 41:6 7:56:50 - 192:9 7:57 - 41:22, 192:12 7:57:13 - 192:18 741 - 142:7	761 - 193:4, 193:5, 193:6 782 - 4:5, 4:8 783 - 4:5, 4:8 8 8:01 - 36:2, 42:17, 192:22 8:44 - 184:20 856 - 144:19 864 - 194:10 8th - 6:19 9 9:15 - 3:1 9:51 - 96:6 911 - 149:6, 149:11, 149:19, 149:22, 150:10, 150:19, 150:22, 150:25, 151:2, 153:15, 153:17, 153:22, 170:8, 170:10, 170:13 926 - 145:11		
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